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federal register

Tuesday
June 22, 1982

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

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Presidential Documents

Title 3—

The President

Proclamation 4948 of June 14, 1982

Baltic Freedom Day

By the President of the United States of America

A Proclamation

The independence of Lithuania, Latvia, and Estonia was extinguished in 1939 as a result of a nefarious deal struck between the Soviet Union and Nazi Germany. Hitler handed Stalin the three Baltic republics as a bonus to secure his cooperation in the destruction of Poland and to obtain a secure eastern frontier which enabled him to launch war against the western democracies. Subsequently, hundreds of thousands of Baltic nationals were deported to the Soviet Union where many of them perished in prisons and forced labor camps. The darkest day of that great human tragedy occurred on June 14, 1941, when their homes and jobs were taken by Russian settlers.

Today, some of the survivors of these mass deportations are citizens of the United States. Their aspirations for a better future for the peoples of Estonia, Latvia, and Lithuania have helped to bring new meaning to our nation's commitment to freedom for all people. The United States has never, over the intervening forty-one years, recognized the forcible incorporation of the Baltic states into the Soviet Union.

As a nation, we remain dedicated to the furtherance and preservation of the fundamental human rights and freedoms of all people and take note on this special day of our hope that the blessings of liberty will one day be part of the national life of the courageous people of Estonia, Latvia, and Lithuania.

The Congress of the United States by Senate Joint Resolution 201 has authorized and requested the President to proclaim June 14 as Baltic Freedom Day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate June 14, 1982, as Baltic Freedom Day. I call upon the people of the United States to reaffirm their belief and hope that the citizens of Latvia, Lithuania, and Estonia and of all nations will one day achieve through peaceful means the goals of democratic freedom and self-determination.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of June, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-16985
Filed 6-18-82: 4:44 pm]
Billing code 3195-01-M

Rules and Regulations

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

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 546 and 563

[82-408]

Delegated Authority in Connection With Mergers

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Bank Board has clarified the merger regulations with respect to the delegated authority of its Principal Supervisory Agents to approve certain mergers.

EFFECTIVE DATE: June 25, 1982.

FOR FURTHER INFORMATION CONTACT: Gayle L. Radley ((202) 377-6961), Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 546.2 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 546.2) prescribes the rules for mergers involving federal savings and loan associations, including delegations of authority to the Bank Board's Principal Supervisory Agent to approve certain mergers. Section 563.22 of the Rules and Regulations for Insurance of Accounts (12 CFR 563.22) prescribes similar rules applicable to mergers involving institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

These sections currently prohibit the Principal Supervisory Agent from approving a merger under delegated authority in cases where the resulting association will be unable to meet the net-worth requirements of § 563.13(b) of the Rules and Regulations for Insurance of Accounts.

The Board is amending 12 CFR 546.2(h)(6) and 563.22(e)(6) to clarify that in calculating the net worth of the resulting association, the Principal Supervisory Agent is authorized to exclude, consistent with the delegated authority to enter into supervisory forbearance agreements, scheduled items which will be acquired in the merger and the amount of either the net-worth deficiency or the liabilities, including averaged liabilities, of the acquired association at the date of merger.

Further, because of some confusion which resulted from the earlier expansion of merger approval authority with respect to supervisory forbearances, *see* Board Resolution 82-103 (February 25, 1982, 47 FR 8152), the Board ratifies all mergers which have been previously approved under delegated authority.

Because the amendments pertain to internal Board procedures and will facilitate the processing of applications and mergers, and because it is in the public interest to provide prompt action on applications, the Board believes it is appropriate to implement the amendments without delay. Therefore, the Board has determined that observance of the notice and public procedure provisions of 12 CFR 508.11 and 5 U.S.C. 553(b) is unnecessary and that publication of these amendments for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d), prior to the effective date of the amendments, is likewise unnecessary.

List of Subjects in 12 CFR Parts 546 and 563

Mergers, Savings and loan associations, Applications.

Accordingly, the Board hereby amends Part 546 of Subchapter C and Part 563 of Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

1. Revise paragraph (h)(6) of § 546.2, to read as follows:

§ 546.2 Procedure; effective date.

* * * * *

(h) The approval of the Board (including recommending modifications of the plan of merger, consolidation, or purchase of bulk assets) required by paragraph (c) of this section may be given by the Principal Supervisory Agent (as defined in § 545.14(a)(3) of this chapter) unless:

* * * * *

(6) the resulting association's net worth would not at least equal the amount required for that association under § 563.13 of this chapter (where goodwill is included in the resulting association's assets, the applicant must submit an opinion of a certified public accountant, satisfactory to the Principal Supervisory Agent, that its use and value are appropriate under and accounted for by generally accepted accounting principles and in accordance with accounting memoranda issued by the Board's staff); for purposes of this paragraph (h)(6), in calculating whether the net worth of the resulting association will at least equal the amount required under § 563.13(b), the Principal Supervisory Agent may exclude scheduled items which will be acquired in the merger and the amount of either: (i) The net-worth deficiency or (ii) the liabilities, including averaged liabilities, of the acquired association at the date of merger;

* * * * *

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

2. Amend paragraph (e)(6) of § 563.22 to read as follows:

§ 563.22 Merger, consolidation, or purchase of bulk assets.

* * * * *

(e) The approval of the Corporation (including recommending modifications of the plan of merger, consolidation, or purchase of bulk assets) required by paragraph (a) of this section may be given by the Principal Supervisory Agent (as defined in § 545.14(a)(3) of this chapter) unless:

* * * * *

(6) the resulting institution's net worth would not at least equal the amount required for that institution under § 563.13 of this Subchapter (where goodwill is included in the resulting institution's assets, the applicant must submit an opinion of a certified public accountant, satisfactory to the Principal Supervisory Agent, that its use and value are appropriate under and

accounted for by generally accepted accounting principles and in accordance with accounting memoranda issued by the Board's staff); For purposes of this paragraph (e)(6), in calculating whether the net worth of the resulting institution will at least equal the amount required under § 563.13(b), the Principal Supervisory Agent may exclude scheduled items which will be acquired in the merger and the amount of either: (i) The net-worth deficiency, or (ii) the liabilities, including averaged liabilities, of the acquired institution at the date of merger;

* * * * *

(Section 5 of the Home Owners' Loan Act, 12 U.S.C. 1464; sections 402, 403, & 407 of the National Housing Act, 12 U.S.C. 1725, 1726, & 1730; Reorg. Plan No. 3 of 1947, 3 CFR 1071 (1943–48 Comp.))

Dated: June 16, 1982.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-16857 Filed 6-21-82; 8:45 am]

BILLING CODE 6720-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 707, 708, and 745

[NCUA IRPS 82-3]

Membership in Federal Credit Unions; Interpretative Ruling and Policy Statement

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interpretative Ruling and Policy Statement.

SUMMARY: Interpretative Ruling and Policy Statement 82–1 dated April 12, 1982, sets forth a statement adopted by the NCUA Board on April 1, 1982, clarifying the agency's policy on membership of more than one group in a Federal credit union. Certain issues have now arisen that have caused the Board to reconsider and revise that policy. Accordingly, effective April 21, 1982, (the date of the Board's most recent deliberations on this matter) NCUA IRPS 82–1 "Membership in Federal Credit Unions" is cancelled and superceded by this Interpretative Ruling and Policy Statement.

This Interpretative Ruling is in response to interest expressed by credit unions and differs from Interpretative Ruling 82–1 primarily in the following respects: (1) The Board's interpretations of the purchase of loans authority of section 107(13) of the Federal Credit Union Act and of the purchase of assets and assumption of liabilities authority of section 107(14) are delineated and the differences of the provisions explained, and (2) the multiple group charters interpretation is expanded from the "occupational type" only provisions expressed in IRPS 82–1 to both "occupational" and "associational" types and further distinguishes the differences between these two types and the charters generally known as "community" types.

EFFECTIVE DATE: April 21, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Linda M. Cohen, Director, Department of Chartering & Education, at the above address or telephone (202) 357–1080. Interpretative Ruling and Policy Statement (IRPS) 82–3.

SUPPLEMENTARY INFORMATION:

I. Purchase of Loans of Liquidating Credit Unions

Section 107(13) of the Federal Credit Union Act (12 U.S.C. 1757(13)) authorizes Federal credit unions to purchase "notes" of members of liquidating credit unions. The aggregate balances of such notes may not exceed five percent of the purchasing credit union's total shares and undivided earnings. The NCUA Board interprets this authority to apply to cases where the purchasing Federal credit union acquires the note solely for its investment value. The note is held as an interest earning asset until paid off by the borrower. The purchase is not used, however, as a means to expand the credit union's customer base.

Section 107(14) of the Act (12 U.S.C. 1757(14)) authorizes Federal credit unions to purchase assets and to assume liabilities of other credit unions, subject to regulations of the Board. The Board interprets this provision to authorize it to allow Federal credit unions to provide customer services to members whose loans are purchased or whose share accounts are assumed pursuant to the provision. In cases of liquidation, it is especially important, in order to protect the interests of the National Credit Union Share Insurance Fund, to utilize this authority. Accordingly, it shall be the policy of the Board that a Federal credit union which purchases the loans of a liquidating credit union may offer full membership rights and services to the borrowers whose loans it has purchased. In cases where the borrower is converted to membership status, section 107(14) shall be considered the operative provision and the 5% limit of section 107(13) shall not apply.

II. Multiple Group Charters

In connection with new charters, charter amendments, conversions and mergers, the NCUA Board has delegated to the NCUA Regional Directors the authority to approve Federal credit union fields of membership including more than one distinct group, consistent with the following statutory policy limitations.

Pursuant to section 109 of the Federal Credit Union Act (12 U.S.C. 1759) the Board has recognized two types of multiple group fields of membership. The first type involves groups that have common bonds of occupation or association. The second type covers groups where one of the groups has what is generally known as a "community" field of membership.

Under the first multiple group field of membership category, each employer or association must have its own common bond. As a matter of policy, all of the employers and associations must be within a well-defined area as determined by the Regional Director.

In the case of the second multiple group category, a narrower geographic standard applies. If any portion of the field of membership is community based, i.e., serves all persons who reside or work in a given area, the combined field of membership is limited to a well-defined neighborhood, community or rural district.

In addition to the above, any applicant for a multiple-group charter, charter amendment, conversion or merger must demonstrate that (1) all affected groups have requested credit union service from the applicant, (2) the applicant can provide credit union services to each group, and (3) the application is economically feasible and generally advisable.

In all cases of disapproval of an application, the Regional Director will advise the applicant of the reason(s) for disapproval and of the right to appeal the decision to the NCUA Board.

The NCUA Board finds that compliance with the above guidelines will result in fields of membership that meet the membership requirements of section 109 of the Federal Credit Union Act (12 U.S.C. 1759).

IRPS 82–1 is hereby cancelled and superseded by this Interpretive Ruling and Policy Statement.

List of Subjects in 12 CFR Parts 701, 707, 708, and 745

Credit unions.

Rosemary Brady,

Secretary of the Board.

June 16, 1982.

[FR Doc. 82-16805 Filed 6-21-82: 8:45 am]

BILLING CODE 7535-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 323

[Docket Nos. 39722 & 39632]

Terminations, Suspensions, and Reductions of Service

AGENCY: Civil Aeronautics Board.

ACTION: Temporary waiver of rule by Order 82-4-87.

SUMMARY: The CAB is exempting all U.S. certificated carriers from notice requirements on carriers planning to reduce or terminate service at points for which no essential air service determination is required. The CAB is granting this exemption on its own initiative, based on a recent court decision.

DATES: Adopted: April 15, 1982.

Effective: Waiver in effect until review of Part 323 is completed.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Rules & Legislation Division, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION:

In the matter of emergency air transportation requirements, Docket 39722 and rulemaking on terminations, suspensions and reductions of service, PR-244, Docket 39632; order granting exemption.

By Order 81-11-57 (November 10, 1981) and Regulation PR-244, 47 FR 7393, February 19, 1982 (adopted January 7, 1982) amending 14 CFR Part 323, the Board imposed notice requirements on carriers planning to reduce or terminate service at all eligible points in circumstances where a point's essential service needs could be affected by the carrier's action. The Board then believed that the Act's essential service provisions, section 419, 49 U.S.C. 1389, empowered us to insure that all eligible points, including those points for which no essential service determination was required by section 419(a)(2), received their essential air service. However, the U.S. Court of Appeals for the District of Columbia Circuit has now ruled that the Board's powers to preclude a suspension of service without a prior notice may be used only at those points where the Board must make an essential service determination under section 419(a)(2), *i.e.*, those eligible points which on October 24, 1978, were served by only one certificated carrier or which thereafter have become served by no more than one certificated carrier. Under the Court's interpretation of section 419, one of the notice requirements of Order 81-11-57 and Regulation PR-244 may be invalid. As a result, we will exempt the carriers from complying with that requirement pending our reexamination of the *Delta* decision's impact on the notice requirements set forth in Part 323.

The Court decision, *Delta Air Lines* v. *Civil Aeronautics Board*, D.C. Cir. No. 80-2339 (decided February 26, 1982), was precipitated by Eastern's plan to terminate all its service at Montgomery, Alabama, a point served by two other certificated carriers, Delta and Republic Airlines. As the Board determined that the loss of all Eastern's service reasonably appeared to deprive the community of its essential air service, the Board temporarily required Eastern under section 419(a)(10) to maintain one round-trip flight a day, ordered Delta and Republic to give 90 days notice before reducing their own service at Montgomery, and directed all three carriers to file traffic and load factor reports, Orders 80-5-170 (May 23, 1980), 80-6-147 (June 24, 1980), 80-7-75 (July 11, 1980), and 80-8-180 (August 29, 1980). The Court held that section 419(a)(10) did not allow the Board to require a carrier to maintain service at a point like Montgomery where no essential service determination is required by section 419(a)(2). While the Court upheld the Board's reporting requirements imposed under section 407(a) of the Act, 49 U.S.C. 1377(a), the Court invalidated the 90-day notice requirement imposed on Delta and Republic for service reductions as section 401(j), 49 U.S.C. 1371(j), allowed advance notice requirements only for service reductions which affected a point's essential air service.

The notice requirement whose validity has been placed in doubt by the Court's decision is the "33 percent notice," required by § 323.3(a)(5) of our rules. That section requires certificated carriers to file a 90 day notice before reducing or terminating service at a point if the total available seats of all carriers linking the point to hubs will then be reduced by one-third or more within a 90-day period. As explained in PR-244, this requirement has not yet taken effect pending compliance with the Paperwork Reduction Act of 1980, which requires the approval of the Office of Management and Budget. In the meantime, the comparable provision of Order 81-11-57 remains in effect. In that order, as a condition to exempting the carriers from other notice requirements imposed by sections 401(j) and 419, we required 90 days notice when a carrier's reduction or termination of service would reduce a point's total service to all hubs by one-fourth or more.

As a result of the Court's decision in *Delta*, however, it appears doubtful that the Board may require every carrier to file advance notice whenever a point may lose 33% (or 25%) of all its service to hubs, unless this loss of service affects a point for which the Board has been required by section 419(a)(2) to make an essential service determination. We consider it unfair and unduly burdensome to the carriers to continue enforcing the "25 percent" and "33 percent" rules when their validity is in doubt, pending our forthcoming review of Part 323 in light of the *Delta* decision. Accordingly, we find that granting the certificated carriers an exemption from those rules is in the public interest. Delta, moreover, has filed a petition for judicial review of the "25 percent" and "33 percent" notice requirements, *Delta Air Lines* v. *CAB*, D.C. Cir. No. 82-1253 (filed March 9, 1982). By exempting Delta and other carriers from most of these requirements, we will also avoid any need for an early consideration of the rule's validity by the Court.

We will not, however, exempt the carriers entirely from these requirements, for we find that they may be necessary for the implementation of the Act's essential service guarantee at those points where we have been required to make an essential service determination. Many of these points have essential air service definitions which provide the maximum guarantee of 160 seats provided by our regulations, § 398.6(a). However, we recognize that there may be come transitional situations where the 160-seat maximum will not be adequate to ensure essential service. Consequently, our regulations also provide that if an eligible point suffers an abrupt and significant reduction in service, we may temporarily increase that guarantee. This provision was adopted because a significant portion of that community's traffic may be unaccommodated even though the point would still be receiving more than the 160-seat maximum provided for by our rules. See 14 CFR 398.6(b)(4); PS-87, 44 FR 52646, 52648 (September 7, 1979). Therefore, we reserve the right to increase temporarily

the point's guarantee so that we could prevent the incumbent carrier from reducing service below the interim level. Notice of the carrier's intention to reduce its service is necessary for us to know when a major reduction in service is planned, determine whether an interim definition will be required, and act to hold in the carrier to preserve that interim level of service. Without such notice, our ability to protect these communities would be sharply reduced because the carrier will have reduced its service before we can issue a revised definition. Accordingly, we will retain the "25 percent" and "33 percent" notice requirements at those points for which the Act requires an essential service determination.

We are granting this exemption on our own initiative. Our decision to do so is based on the Court's acceptance in the *Delta* case of the legal arguments made by Delta both there and in the rulemaking proceeding. The exemption is intended to be temporary, for it will end when we complete our review of Part 323.

Accordingly, we exempt all U.S. certificated carriers from § 323.3(a)(5) of our Procedural Regulations as amended by PR–244 and from ordering paragraph 1(d) of Order 81–11–57, except where the point at which service is being reduced or terminated is one for which the Board was or is required to make an essential air service determination by section 419(a)(2) of the Act.

List of Subjects in 14 CFR Part 323.

Air carriers, Essential air service.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–16856 Filed 6–21–82: 8:45 am]

BILLING CODE 6320–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending its Code of Conduct for Commission members and employees and former Commission members and employees. One purpose of the revision is to conform the Code to the requirements of certain provisions of the Ethics in Government Act of 1978, particularly those provisions which place restrictions on the representational activities of former Commission members and employees. In addition, certain provisions of the Code are being modified to lessen the burden of their administration and to enhance the ease of compliace therewith. Futher, various technical amendments are being made to conform the Code to the Commodity Exchange Act, as amended by the Futures Trading Act of 1978. The Commission's action relates solely to agency organization, procedure and practice.

EFFECTIVE DATE: June 22, 1982.

FOR FURTHER INFORMATION CONTACT: Helen Blechman, Attorney, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254–9880.

SUPPLEMENTARY INFORMATION: The Commision's Code of Conduct, 17 CFR 140.735–1 *et seq.* (1981), generally establishes ethical standards for Commission members and employees and former Commission members and employees.[1] Various sections of the Code are modeled on conflict-of-interest statutes and regulatory provisions, which also prescribes ethical standards for present and former federal officers and employees. Enactment of the Ethics in Government Act of 1978, amendment of the Commodity Exchange Act in 1978 and the decision otherwise to amend certain provisions of the Code of Conduct necessitate revision of various sections of the Code. Accordingly, after consulting with and obtaining the approval of the Office of Government Ethics of the Office of Personnel Management, the Commission has adopted the following amendments to its Code of Conduct.

Practice Before the Commission by Former Commission Members and Employees

The Commission is revising section 10 of the Code, 17 CFR 140.735–10, to conform that provision generally to 18 U.S.C. 207 (Supp. III 1979), as amended by Title V of the Ethics in Government Act of 1978.[2] Section 10 of the Code places limitations on appearances before and communications with the Commission by former Commission members and employees. Section 10 is based, in part, on 18 U.S.C. 207, which places certain restrictions on practice before federal departments, agencies and courts by former federal officers and employees, restrictions which are designed to avoid conflicts of interest.

Section 10(a) of the Code is derived, in part, from 18 U.S.C. 207(a).[3] As amended, section 207(a) generally prohibits former federal officers and employees permanently from knowingly representing any other person (except the United States) in an appearance before or a communication with a federal (or District of Columbia) department, agency or court, or other enumerated entities, or any officer or employee thereof, in connection with any particular matter involving a specific party or parties [4] in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while with the government. While the current version of section 10(a) of the Code of Conduct generally conforms with 18 U.S.C. 207(a), as amended (the prior version of 18 U.S.C. 207(a) contained a nearly identical permanent bar on representation in such particular matters), the Commission has determined to revise that provision of its Code to eliminate certain apparent variations.

For example, section 10(a), as revised, will apply only to particular matters "involving a specific party or parties." While this is consistent with the Commission's interpretation of the scope of the present section 10(a), the amendment will make that express. In addition, section 10(a), as amended, will expressly apply to communications with the Commission, as well as appearances before the Commission. While the present section 10(c) of the Code makes clear that appearance before the Commission has always included communication with the Commission, as well as its members and employees, the

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[1] The Commission's Code of Conduct was adopted in 1976. 41 FR 27510 *et seq.* (July 2, 1976), as amended by 42 FR 15902 (March 24, 1977) and 45 FR 70441–70442 (October 24, 1980).

[2] Pub. L. 95–521, 92 Stat. 1864–1867 (1978), as amended by Pub. L. 96–28, 93 Stat. 76–77 (1979).

[3] Section 10(a) of the Code presently provides: No person shall ever appear in a representative capacity before the Commission in a particular matter if such person, or one participating with him in the particular matter, personally considered it or gained nonpublic knowledge of the facts thereof while he was a member or employee of the Commission. [Footnotes omitted].

[4] The phrase "particular matter involving a specific party or parties" does not apply to general rulemaking, general policy and standards formulation or other similar matters. *See* § 737.5(c)(1) of the regulations of the Office of Government Ethics, Office of Personnel Management, 5 CFR 737.5(c)(1) (1981); *cf.* memorandum of the Attorney General dealing with the conflict-of-interest provisions prior to amendment by the Ethics in Government Act (which memorandum is reproduced in material following 18 U.S.C. 201 (1976 Edition)).

language of new section 10(a) is being revised to parallel the wording of 18 U.S.C. 207(a), as amended. Finally, again in conformance with section 207(a), as amended, the wording of section 10(a) is being amended to apply to matters in which the former Commission member or employee participated personally and substantially while with the Commission, as opposed to matters which he or she "personally considered." This change is also consistent with the Commission's interpretation of the application of the current version of section 10(a). The Commission is retaining the portion of section 10(a) which permanently bars representation on matters about which the former member or employee gained nonpublic knowledge while employed by the Commission.[5]

Section 10(b) of the Code is also being revised to conform it generally to 18 U.S.C. 207(b)(i), as amended.[6] Section 207(b)(i) generally prohibits former federal officers and employees, within two years after their federal employment has ceased, from knowingly representing any other person (except the United States) in an appearance before or a communication with a federal (or District of Columbia) department, agency or court, or other enumerated entities, or any officer or employee thereof, in connection with any particular matter involving a specific party or parties in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and which was actually pending under the official responsibility of the former officer or employee within one year prior to the termination of that responsibility.[7]

The present version of section 10(b) of the Code is consistent with 18 U.S.C. 207, as amended, in many respects. However, there are certain differences between the present rule and statute as amended. Thus, section 10(b) is being amended to impose a two-year post-Commission employment ban on representative appearances before or communications with the Commission, in place of the present one-year ban. In addition, the revised provision will specify that it covers matters which were "actually pending" under the official responsibility of the former member or employee. The definition of "official responsibility," presently found in section 10(b) is being moved to new section 10(f), which sets forth various definitions (see the discussion below). As is presently the case, the term "official responsibility" will have the meaning assigned in 18 U.S.C. 202, namely, direct administrative or operating authority, whether intermediate or final, which is exercisable alone or in conjunction with others to direct government action.

The Commission is also adding a new section 10(c) to the Code to implement the restrictions which 18 U.S.C. 207(b)(ii) and (c), as amended, place on former federal officers and empoyees who occupied certain senior positions. Section 207(b)(ii) basically makes it unlawful for a former federal officer or employee who occupied a position specified in 18 U.S.C. 207(d)(1)(A), as amended, or designated pursuant to 18 U.S.C. 207(d)(1)(C), as amended,[8] within two years after leaving that position, knowingly to represent, or assist in the representation of, any other person (except the United States) by personal presence at an appearance before a federal (or District of Columbia) department, agency or court, or other enumerated entities, or any officer or employee thereof, in connection with any particular matter involving a specific party or parties in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while with the government. In addition, section 207(c) generally prohibits the same officers and empoyees[9] from knowingly appearing before or communicating with the department or agency in which the former officer or employee served, or any member or employee thereof, on behalf of any other person (except the United States) in connection with any particular matter, including a rulemaking proceeding, pending before that department or agency or in which the department or agency has a direct and substantial interest for a period of one year following the departure of the former officer or employee from the department or agency.[10]

Accordingly, new section 10(c)(1) of the Code will prohibit all former Commission members, as well as former Commission employees whose positions are specified in section 207(d)(1)(A) or designated pursuant to section 207(d)(1)(C), for a period of two years after their departure from such positions, from knowingly representing, or assisting in the representation of, any other person (except the United States) by personal presence at an appearance before the Commission, or any of its members or employees, in connection with any particular matter involving a specific party or parties in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and in which the former member or employee participated personally and substantially while with the Commission. In addition, section 10(c)(2) will prohibit the same former Commission members and employees for a period of one year after their departure from the Commission from knowingly representing any other person in an appearance before or a communication with the Commission, or any of its members or employees, in connection with any particular matter, including a rulemaking proceeding, pending before the Commission or in which the Commission has a direct and substantial interest. This latter restriction applies regardless of whether

[5] This part of section 10(a) of the Commission's Code of Conduct extends beyond the criminal prohibition of 18 U.S.C. 207(a) and establishes as a matter of policy a standard of conduct to which former Commission members and employees are required to adhere.

[6] Section 10(b) of the Code presently provides, in pertinent part: No person who has been a member or an employee shall, within one year after his employment has ceased, appear in a representative capacity before the Commission in any matter which was under his official responsibility as a member or employee of the Commission at any time within a period of one year prior to the termination of such responsibility. [Footnote omitted].

[7] The prior version of 18 U.S.C. 207(b) contained a similar bar on representation in such particular matters, but for a period of only one year.

[8] At the Commission, these restrictions apply to Commission members, Executive Level employees and most Senior Executive Service employees. The statutory restrictions contained in Sections 207(b)(ii) and (c) became effective as to Commission members and Executive Level employees by operation of law on July 1, 1979. As to those Senior Executive Service employees who were initially designated by the Office of Government Ethics under the Ethics in Government Act, these restriction became effective February 28, 1980.

[9] Although the Director of the Office of Government Ethics, Office of Personnel Management, in accordance with 18 U.S.C. 207(d)(1)(C) and (e), has the authority to limit the applicability of the prohibition of section 207(c) as to senior employees in departments and agencies having unrelated or separate statutory agencies and bureaus, no such limitation is in effect with respect to the Commission, nor is one contemplated.

[10] Attention is also directed to section 2(a)(7)(B) of the Commodity Exchange Act, as added by the Futures Trading Act of 1978, 7 U.S.C. 4a(f)(2) (Supp. IV 1980). That section basically prohibits former Commission members, as well as former Commission employees who occupied positions classified at the GS-16 level or higher excepted from the competitive service by reason of their policymaking or confidential character, for a period of one year after they cease to occupy those positions, from making any appearance before the Commission or making any written or oral communication to the Commission, or any member or employee thereof, on behalf of any other person (except the United States) in connection with any particular matter that is before the Commission. Appearances and responses with respect to Commission subpoenas and solely personal and individual matters are excluded from this prohibition.

the Commission member or employee concerned participated in the matter while with the Commission and applies to matters which arise after the member or employee leaves the Commission.

The Commission notes that several subsections of 18 U.S.C. 207 limit the extent of the prohibitions in subsections (a), (b) and (c) thereof. Thus, in accordance with subsection (f), communications solely for the purpose of furnishing scientific or technological information in accordance with agency directives are permissible. In addition, a former government officer or employee may give testimony under oath or make a statement which is subject to penalty of perjury without regard for the prohibitions in subsection (a), (b) and (c) pursuant to 18 U.S.C. 207(h).

Moreover, pursuant to 18 U.S.C. 207(d)(2), the one-year bar in 18 U.S.C. 207(c) on contact with a former senior officer's or employee's agency is not applicable to representation by elected state or local government officials or those principally employed by state or local governments, accredited degree-granting institutions of higher education or certain tax exempt hospitals and medical research organizations on behalf of such entities. Nor does that bar apply to appearances or communications concerning matters of a personal and individual nature or to an uncompensated statement by such a former officer or employee in a particular area within his or her own special knowledge, in accordance with 18 U.S.C. 207(i).

A new section 10(d) is being added to the Code of Conduct to encompass these limiations on the prohibitions which generally apply.

Because of the addition of new sections 10(c) and 10(d), the existing section 10(c) of the Code of Conduct is being redesignated section 10(e). Like the present section 10(c), new section 10(e) will require former Commission members and employees who, within two years after their departure from the Commision, are employed or retained to represent persons in connection with matters which might require appearances before or communications with the Commission, or its members or employees, to file a written statement with the Commission's General Counsel setting forth the nature thereof. One clarifying change is being made. As revised, new sections 10(e) will apply to representation of any person (except the United States) rather than just to persons "outside the government." Thus, representation of individual Commissioners and Commission employees will now be clearly covered.

The last two sentences of the present section 10(c), which define certain terms used in section 10, has been made, with modification, a separate section 10(f). The definition of the phrase "appearance before the Commission" is being reworded to refer to formal or informal representative appearance (except on behalf of the United States) before the Commission, or any of its members or employees. Moreover, in order to conform further to the new wording of 18 U.S.C. 207, a new phrase—"communication with the Commission"—is being defined, which will mean oral or written communication with the Commission, or any of its members or employees, on behalf of another person (except the United States) with an intent to influence. These modifications represent no substantive change in the Commission's interpretation of what constitutes an appearance or a communication. Finally, as noted above, the definition of "official responsibility" is being moved to this section.

The present section 10(d), which provides that persons in doubt as to the applicability of any of the provisions of section 10 may request an advisory ruling by the Commission's General Counsel, is being redesignated section 10(g). The wording of that provision is being modified to make it clear that it is the General Counsel who issues an advisory ruling thereunder.

The Commission is also adding a new section 10(h) to the Code to implement 18 U.S.C. 207(j), as amended. Section 207(j) generally provides that if the head of a government department or agency finds, after notice and opportunity for hearing, that a former officer or employee of that department or agency has violated 18 U.S.C. 207(a), (b) or (c), as amended, he or she may prohibit the former officer or employee from making on behalf of any other person (except the United States) any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, the department or agency on a pending matter of business for a period of up to five years, or may take other appropriate disciplinary action.[11] Section 207(j) further requires government departments and agencies to establish procedures to carry out its provisions.[12]

Under the new section 10(h)(2) of the Code of Conduct, the Commission's General Counsel, or his or her designee, will have authority to conduct such investigations as he or she deems appropriate to determine whether a former Commission member or employee may have violated 18 U.S.C. 207 (a), (b) or (c). This provision will also require that the General Counsel report the results of any investigations which he or she conducts to the Commission and recommend to the Commission such action as he or she deems appropriate.[13]

If the Commission elects to initiate a proceeding to determine whether any of the statutory prohibitions has been violated, that proceeding will be conducted in accordance with the rules of practice which the Commission has prescribed for adjudicatory proceedings (17 CFR Part 10), except to the extent that those adjudicatory procedures are inconsistent with the provisions of the new section 10(h). The General Counsel will prosecute all administrative proceedings brought pursuant to the new section, and all hearings required to be held by the section will be presided over by a Commission Administrative Law Judge. See section 10(h)(3) of the Code.

If the Commission finds, after notice and opportunity for a hearing, that a former Commission member or employee has violated 18 U.S.C. 207 (a), (b) or (c), as amended, the Commission may, pursuant to section 10(h)(4) of the Code of Conduct, prohibit that former member or employee from making on behalf of any other person (except the United States) any formal or informal appearance before, or, with the intent to influence, any oral or written communication to the Commission on any pending matter of business for a period of up to five years, or may take other appropriate disciplinary action. See 18 U.S.C. 207(j) and section 10(h)(4) of the Code. In determining whether a violation has occurred, the Commission will be guided by the language and

[11] Section 207(j) also provides that any disciplinary action taken pursuant to the provisions will be subject to review in an appropriate United States district court.

[12] Section 207(j) requires that the implementing procedures be developed in consultation with the Director of the Office of Government Ethics of the Office of Personnel Management. The Commission has complied with this requirement.

[13] In addition to requiring administrative enforcement, section 207 prescribes criminal penalties for violations of its subsections (a), (b) and (c). Thus, if the General Counsel makes a preliminary determination that a former member or employee may have violated one of these provisions, or the Commission, upon his or her recommendation, finds that such a violation has occurred, the matter will be referred to the Criminal Division of the Department of Justice. See 28 U.S.C. 535 (1976). In such a case, the General Counsel will thereafter conduct his investigation of the matter in coordination with the Department of Justice, in order to avoid the possibility of prejudicing any criminal proceeding which might result, unless the Department informs the Commission that it does not intend to initiate criminal prosecution.

legislative history of 18 U.S.C. 207, as amended, as well as by the regulations which the Office of Government Ethics, Office of Personnel Management, has promulgated thereunder. See 45 FR 7402 *et seq.* (February 1, 1980), 45 FR 8544 *et seq.* (February 8, 1980) and 45 FR 75500 *et seq.* (November 14, 1980), now codified at 5 CFR Part 737 (1981).

Notification of Farm and Other Similar Interests and Outside Employment

The Commission is amending footnote 3 of section 4(b)(2) of the Code of Conduct, 17 CFR 140.735–4(b)(2), n. 3, to modify the requirement that a Commission member or employee who owns a farm or ranch or engages in certain permitted livestock transactions seek Commission clearance. In place of that requirement, the new provision will require that any member or employee who owns a farm or ranch or engages in permitted livestock transactions notify the Commission. In the view of the Commission, this modification will sufficiently implement the notice requirement set forth in section 9(d) of the Commodity Exchange Act, 7 U.S.C. 13(d) (Supp. IV 1980), with respect to such transactions. The written notification should set forth all pertinent facts with respect to the farm or other interests and the submissions will, in accordance with the above-cited provision of the Commodity Exchange Act, be publicly available.

The Commission is also amending section 5(e)(1) of its Code of Conduct, 17 CFR 140.735–5(e)(1), to change the requirement that an employee who intends to accept or perform any outside or private employment or professional work must obtain authorization in advance from the Director of Personnel, in consultation with his or her division or office head. Instead, under the amendment, an employee must submit a notification in advance of such acceptance or performance. The notification is to be submitted to the division or office head who will forward it, together with any comments he or she may have, to the Executive Director. The Executive Director will review the notification and comments in order to determine whether such employment or professional work is consistent with concurrent Commission employment in accordance with the standards set forth in section 5(a) of the Code. In the event that the Executive Director determines that the outside work is inconsistent with concurrent Commission employment, he or she shall attempt to resolve the matter or, if unable to do so, shall refer it to the General Counsel who shall resolve the matter or forward it to the Commission for consideration.

The Commission is adopting these new procedures to reduce the administrative burden caused by the present requirements of Commission clearance for farm and other similar interests and of advance authorization by the Director of Personnel for outside employment. The notification requirements should decrease the amount of time devoted, respectively, by the Commission and supervisory personnel for compliance with these provisions. Moreover, the new procedures should enhance the ease of compliance by employees.

Financial Reporting by Commission Members and Employees

The Commission is also amending section 7 of the Code of Conduct, 17 CFR 140.735–7, to conform it to Title II of the Ethics in Government Act which requires separate reporting for high-level Commission officials.[14] Under the Ethics Act, Commissioners and Commission employees who occupy Senior Executive Service positions, positions compensated at the basic rate of pay of GS–16 or above, administrative law judge positions or Schedule C positions which entail advising as to or determining Commission policy are required to file the detailed, publicly-available Standard Form 278 financial statement promulgated by the Office of Government Ethics, Office of Personnel Management. This requirement has recently been reflected in a revised paragraph (j) of section 7 of the Code which the Commission has already separately published in the **Federal Register.**[15]

With these changes, section 7(c) of the Code, which lists those at the Commission required to file statements of employment and financial interests by category of positions held, is being amended. First, with the enactment of the Ethics Act, the present section 7(c)(1) has become obsolete and is now being deleted. The present section 7(c)(2) is being modified in light of the new law and redesignated as section 7(c)(1). Recently adopted section 7(c)(3), see footnote 15, is being redesignated as section 7(c)(2) and is being republished herein for the sake of clarity. Present section 7(c)(4), with modification to mention the Office of Government Ethics, Office of Personnel Management, instead of the Civil Service Commission, is being redesignated as section 7(c)(3). The Commission is also amending paragraph (i) of Section 7 of the Code, concerning the effect of filing of financial statements, to mention the reports referred to in paragraph (j)—the Ethics Act statements required of high-level Commission officials.

Employment Negotiation Expenses

The Commission has traditionally interpreted section 8(a) of its Code of Conduct, 17 CFR 140.735–8(a), to bar reimbursement by a person who is regulated by the Commission or who is a representative of such a person of expenses incurred by a Commission member or employee who is negotiating for employment with that person. In light of its continuing experience with this interpretation and the increasing number of employees who, after their tour of service with the Commission, are leaving for employment in the private sector, the Commission has determined to change its policy on such expense reimbursement. Thus, a new clause (8) is being added to the exceptions provision, section 8(b), to indicate that henceforth Commission members and employees may accept reasonable travel and subsistence expense reimbursement from any person, even if that person is subject to Commission regulation or is a representative of such a person, provided that the General Counsel approves in advance and that the member or employee is engaged in bona fide post-Commission employment negotiations with that person and is not on official business at the time. By this means, the Commission will avoid unduly impeding the mobility of Commission members and employees and its conduct provision will not operate in favor of local versus more distant potential employers as to which greater travel and subsistence expenses would have to be incurred in connection

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[14] Pub. L. 95–521, 92 Stat. 1836–1850 (1978), as amended by Pub. L. 96–19, 93 Stat. 37–44 (1979).

[15] In addition to amending section 7(j) of the Code, the Commission, in response to recommendations by the Comptroller General and after obtaining the approval of the Office of Government Ethics, Office of Personnel Management, adopted other amendments to section 7 of the Code of Conduct, the reporting provision, to expand reporting by the Commission's professional employees and to establish a certification of compliance system for the other Commission employees. See new sections 7(c)(3) and 7(k) of the Code, 45 FR 70441–70442 (October 24, 1980). One of the new provisions, section 7(c)(3), is being redesignated herein as section 7(c)(2) in light of the deletion of present section 7(c)(1) of the Code. See the text.

Moreover, the Commission is now amending the text and title of Section 7 to indicate that the provision covers, in addition to financial statements, certifications of compliance with the provisions of the Code concerning financial interests and outside employment and to more accurately track the title of the statement form—statement of financial interests and outside employment. The Commission is also amending section 7(g) of the Code to reflect that the certifications of compliance, as well as the statements of financial interests and outside employment, will generally be treated confidentially.

with employment negotiations. Moreover, the Commission believes that authorizing Commission members and employees to receive reasonable expense reimbursement in the case of bona fide employment discussions while not on official business will not present any real or apparent conflicts of interest and hence is also consistent with the payment of expense clause of section 5(a)(3) of the Code, 17 CFR 140.735–5(a)(3). In this regard, the Commission notes that its members and employees must still adhere to the requirements of 18 U.S.C. 208 (Supp. III 1979) of the conflict-of-interest laws and section 6 of the Code of Conduct, 17 CFR 140.735–6, which taken together bar them from negotiating for employment or having a prospective arrangement concerning future employment with any person who would be directly or indirectly affected by any particular official matters on which they are working.

Travel and Subsistence Expense Reimbursement

The Commission is amending section 8(c) of the Code, 17 CFR 140.735–8(c), to reflect current Commission practice with respect to travel and subsistence expense reimbursement. Although the present wording of section 8(c) is restrictive and generally bars such reimbursement by any outside organization while a Commission member or employee is on official active duty status and is authorized to receive government expense reimbursement, the Commission for some time has followed a more liberal practice similar to that of the Securities and Exchange Commission. Therefore, the Commission is amending section 8(c) of its Code of Conduct to provide that, if the General Counsel approves in advance, reasonable travel and subsistence expenses of Commission members and employees who are on official active duty status may be reimbursed by academic or other nonprofit organizations determined by the Secretary of the Treasury to be tax exempt pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) (1976), provided that they are not composed predominantly of persons subject to Commission regulation. The Commission believes this amendment is authorized in accordance with 5 U.S.C. 4111 (1976 and Supp. IV 1980) concerning acceptance by federal officers and employees from such organizations of contributions and awards for outside training and payment for travel, subsistence and other expenses related to attendance at meetings. Furthermore, the amendment will enable Commission members and employees to speak to appropriate groups at distant locations without depleting the Commission's limited travel funds. In addition, section 8(c) is being further amended to provide that Commission employees (but not members), while not on official active duty, may accept reasonable travel and subsistence reimbursement from other organizations when asked to speak on matters within their Commission expertise if the General Counsel approves the reimbursements in advance. Both in the case of section 501(c)(3) and other organizations, the General Counsel, in deciding whether to approve private reimbursement, will consider the availability of Commission funds for the proposed travel, the benefit to the government, the appearance of acceptance of reimbursement from the private organization and any other relevant factors.

Miscellaneous Amendments

The Commission is making technical amendments to various sections of the Code to conform them to the Commodity Exchange Act, as amended by the Futures Trading Act of 1978. These amendments reflect the redesignation of section 2(a)(7) of the Act as section 2(a)(7)(A) and of section 217 of the Commodity Futures Trading Commission Act of 1974 as section 19 of the Act (that section was also substantively amended to expand its coverage to include leverage transactions in any commodity, section 4(b)(1)(iii) of the Code, 17 CFR 140.735–4(b)(1)(iii), is being similarly expanded to reflect that amendment), and the increase of the criminal money penalty for violation of sections 9(d) and 9(e) of the Act from $10,000 to $100,000.

In addition, in accordance with a government reorganization and the Civil Service Reform Act of 1978,[16] as well as the Ethics in Government Act, references to the Office of Government Ethics, Office of Personnel Management, are being inserted in the Code in place of the Civil Service Commission, since that Office is the successor to the Civil Service Commission for government ethics matters.

The reference in footnote 10 to section 5(c) of the Code, 17 CFR 140.735–5(c), n. 10, to the restrictions on receipt of honoraria contained in the Federal Election Campaign Act is being amended to indicate the new section number and to state that that law "generally" prohibits receipt of honoraria over a certain amount in order to reflect certain modifications of the strictures effected by changes in the law.[17]

The Commission is amending footnote 17 to section 9 of the Code, 17 CFR 140.735–9, which deals with confidential and nonpublic official information, to make express mention of section 8 of the Commodity Exchange Act, 7 U.S.C. 12 (Supp. IV 1980), which in pertinent part sets forth particular kinds of business information that are generally confidential.

In section 12 of the Code, 17 CFR 140.735–12, listing statutory conduct provisions applicable to Commission members and employees, references to section 8 of the Commodity Exchange Act, as amended, 7 U.S.C. 1, *et seq.*, and to the recently-enacted Code of Ethics for Government Service are being added.[18]

Furthermore, in section 14(b) of the Code, 17 CFR 140.735–14(b), which concerns gifts from foreign governments, a cross reference is being added to the new § 140.735–8A of the Commission's rules and regulations, 17 CFR 140.735–8A, which implements amendments to the Foreign Gifts and Decorations Act.[19]

Finally, the Commission is adding a second sentence to Section 16(a) of the Code to codify the designation of the Commission's General Counsel as its designated agency ethics official to review the financial reports filed by high-level Commission officials under Title II of the Ethics in Government Act, as well as otherwise to coordinate and manage the Commission's ethics program.

The Commission has determined that these amendments to the Code of Conduct relate solely to agency organization, procedure and practice. Therefore, the provisions of the Administrative Procedure Act, as codified, 5 U.S.C. 553, generally requiring notice of proposed rulemaking and other opportunity for public participation are not applicable. The Commission further finds that, because of the need promptly to update its Code of Conduct in light of the enactment of the Ethics in Government Act and the Futures Trading Act of 1978, as well to effect other desirable changes, there is good cause to make these amendments effective upon publication in the **Federal**

[16] Pub. L. 95–454, 92 Stat. 1111 *et seq.* (1978).

[17] Title V, section 502(a) of Pub. L. 95–216, 91 Stat. 1565 (1977), renumbered in Title I, section 105(5) of Pub. L. 96–187, 93 Stat. 1354 (1980).

[18] Pub. L. 96–303, 94 Stat. 855–856 (1980).

[19] That rule, which deals with the receipt and disposition of foreign gifts and decorations by Commission members and employees and has been adopted in accordance with State Department guidance, was separately published in the **Federal Register**. See 47 FR ——— *et seq.* (——— —, 1982).

Register. Therefore, the amendments will become effective on June 22, 1982.

List of Subjects in 17 CFR Part 140

Authority delegations, Commodity futures, Conflict of interests, Organizations and functions.

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

Accordingly, the Commission, pursuant to the authority contained in sections 2(a)(11) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 4a(j) and 12a(5), Executive Order 11222, 3 CFR, 1964–1965 Comp., as amended, 5 CFR 735.104 and 18 U.S.C. 207(j), hereby amends Subpart C of Part 140 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

1. The table of sections of Subpart C of Part 140 is amended as follows:

* * * * *

140.735–7 Statement of financial interests and outside employment; certification of compliance.

* * * * *

§ 140.735–1 [Amended]

2. Section 140.735–1 is amended by removing the words "Civil Service Commission" and inserting in place thereof the words "Office of Government Ethics, Office of Personnel Management,".

§ 140.735–4 [Amended]

3. In § 140.735–4(b)(1), clause (iii) is amended by removing the words "silver bullion, gold bullion, bulk silver coins or bulk gold coins" and inserting in place thereof the words "any commodity" and footnote 2 is amended by removing the reference to "$10,000" and inserting in place thereof "$100,000", by inserting the letter "(A)" after "2(a)(7)" and by deleting the words "Section 217 of the Commodity Futures Trading Commission Act of 1974, 7 U.S.C. 15(a)," and inserting in place thereof the words "Section 19 of the Commodity Exchange Act,".

4. In § 140.735–4(b)(2), the third sentence of footnote 3 is amended by removing the word "explanation" and inserting in place thereof the word "notification", by inserting a "." after the word "facts" and by removing the words "and requesting Commission clearance therefor." and the fifth sentence of footnote 3 is amended by inserting the letter "(A)" after "2(a)(7)".

5. In § 140.735–4(b)(3), footnote 5 is amended by inserting the letter "(A)" after "2(a)(7)".

§ 140.735–5 [Amended]

6. In § 140.735–5(a), footnote 7 is amended by inserting the letter "(A)" after "2(a)(7)".

7. In § 140.735–5(c), the text and footnote 10 are amended by deleting the words "Civil Service Commission" and inserting in place thereof the words "Office of Government Ethics, Office of Personnel Management," and footnote 10 is further amended by inserting "323" in place of "328" and by inserting the word "generally" between the words "Act" and "prohibits" in the first sentence of paragraph two.

8. Section 140.735–5(e)(1) is revised to read as follows:

§ 140.735–5 Non-Governmental employment and other outside activity.

* * * * *

(e)(1) *Notification required.* An employee who intends to accept or perform any outside or private employment or professional work shall submit a written notification in advance of such acceptance or performance. The notification shall be submitted to the division or office head concerned, together with all pertinent facts regarding the forthcoming employment or professional work, such as the name of the employer, the nature of the work to be performed, its estimated duration and the fee or compensation to be received. The division or office head shall forward all notifications, together with any comments he or she may have thereon, to the Executive Director who shall review them and determine whether such employment or professional work is consistent with concurrent Commission employment.[20] In the event that the Executive Director determines that the forthcoming outside employment or professional work is inconsistent with concurrent Commission employment, he or she shall attempt to resolve the matter, or, if unable to do so, shall refer the matter to the General Counsel who shall resolve it or forward it to the Commission for consideration

* * * * *

9. Section 140.735–5(g) is amended by removing the words "Civil Service Commission" and inserting in place thereof the words "Office of Government Ethics, Office of Personnel Management,".

10. The title of § 140.735–7 is revised to read as follows:

[20] Office heads in Commission Regional Offices receiving notifications shall forward them to the Regional Deputy Counselor, § 140.735–16(c), *Infra*, who shall attempt to resolve the matter, or, if unable to do so, shall forward the matter to the Executive Director.

§ 140.735–7 Statement of financial interests and outside employment; certification of compliance.

* * * * *

11. Section 140.735–7 is amended by removing the words "statement(s) of employment and financial interests" wherever they appear and inserting in place thereof the words "statement(s) of financial interests and outside employment".

12. Sections 140.735–7 (c) and (g) are revised to read as follows:

§ 140.735–7 Statement of financial interests and outside employment; certification of compliance.

* * * * *

(c) *Employees who are required to submit statements.* Statements of financial interests and outside employment are required of the following;

(1) Employees in classified positions of Grade GS–13, GS–14 or GS–15, under Section 5332 of Title 5, United States Code, or the equivalent thereof, unless they are required to file financial reports under the Ethics in Government Act;

(2) Employees occupying positions as attorney, auditors, economists, futures trading specialists or investigators in any classified positions under section 5332 of Title 5, United States Code; and

(3) Such other employees as the Commission, in consultation with the Office of Government Ethics, Office of Personnel Management, may specify.

* * * * *

(g) *Confidentiality.* Statements of financial interests and outside employment and certifications of compliance shall be sent to the Director of Personnel in a sealed envelope marked "Confidential" and shall be maintained in a confidential file. Only those officials of the Commission whose participation is necessary for the carrying out of the purpose of this Conduct Regulation may have access to such statements and certifications and no information therefrom may be disclosed by them except as the Commission by formal order or the Office of Government Ethics, Office of Personnel Management, may determine for good cause shown.

* * * * *

13. In § 140.735–7(i), the first sentence is amended by inserting the words "pursuant to this section, as well as the reports referred to in subsection (j)," between the words "employees" and "are".

14. Section 140.735–7(k)(2) is amended by redesignating footnote "13a" as footnote "14".

15. Section 140.735–8(b) is amended by removing the word "or" immediately preceding clause (7), by inserting a ";" in place of the "." after the end of clause (7) and by adding the following additional language thereafter "or (8) if the General Counsel approves in advance, to reasonable travel and subsistence expense reimbursement by potential employers provided the Commission member or employee is engaged in bona fide post-Commission employment negotiations and is not on official business at the time.".

16. Section 140.735–8(c) is revised to read as follows:

§ 140.735–8 Acceptance of things of value.

* * * * *

(c) *Travel and subsistence expense reimbursement.* (1) Except as specifically authorized by paragraph (c)(2) of this section or as otherwise authorized by law, Commission members and employees are not authorized to accept on behalf of the United States voluntary donations from private sources for travel expenses in the form of cash, or services in kind, such as hotel accomodations. An employee who is officially directed to participate in a convention, seminar or similar meeting of an outside organization on an active duty basis and is authorzed to receive per diem and other travel expenses from the Government, shall not accept travel, subsistence, or payment of other expenses from the outside organization, except as specifically authorized by paragraph (c)(2) of this section or as otherwise authorized by law.

(2) If the General Counsel approves in advance, Commission members and employees may, while on official active duty, accept, pursuant to 5 U.S.C. 4111, reasonable travel and subsistence expense reimbursement from academic or other nonprofit organizations which have been determined by the Secretary of the Treasury to be tax exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, 26 U.S.C. 501(c)(3), provided that they are not predominantly composed of persons subject to regulation by the Commission. While not on official active duty, Commission employees may accept reasonable travel and subsistence expense reimbursement from other organizations when asked to speak on matters within their Commission expertise if the General Counsel approves the reimbursement in advance. Both in the case of section 501(c)(3) and other organizations, the General Counsel, in deciding whether to approve private reimbursement, will consider the availability of Commission funds for the proposed travel, the benefit to the government, the appearance of acceptance of reimbursement from the private organization and any other relevant factors.

§ 140.735–9 [Amended]

17. In § 140.735–9, footnote 15 is amended by removing the reference to "$10,000" and inserting in place thereof "$100,000" and footnote 17 is amended by adding a "s" to the end of the word "section" and inserting immediately thereafter and before "9(e)" the words "8 and".

18. Section 140.735–10 is revised to read as follows:

§ 140.735–10 Practice by former members and employees of the Commission.

(a) *Personal and substantial participation or nonpublic knowledge of a particular matter.* No person who has been a member or employee of the Commission shall ever knowingly represent any other person (except the United States) in an appearance before or a communication with the Commission in connection with any particular matter involving a specific party or parties [21] in which such person, or one participating with him or her in the particular matter, participated personally and substantially, [22] or gained nonpublic knowledge of facts thereof, while with the Commission.

(b) *Particular matter under an individual's official responsibility.* No person who has been a member or employee of the Commission shall, within two years after that employment has ceased, knowingly represent any other person (except the United States) in an appearance before or a communication with the Commission in connection with a particular matter involving a specific party or parties [23] which was actually pending under his official responsibility as a member or employee of the Commission at any time within one year prior to the termination of that responsibility.[24]

(c) *Restrictions on former members and senior employees.* A former member or employee of the Commission who occupied a position specified in 18 U.S.C. 207(d)(1)(A), as amended, or designated pursuant to 18 U.S.C. 207(d)(1)(C), as amended, shall not:

(1) Within two years after such employment has ceased, knowingly represent, or assist in the representation of, any other person (except the United States) by personal presence at an appearance before the Commission in connection with a particular matter involving a specific party or parties [25] in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and in which the former Commission member or employee participated personally and substantially while with the Commission; or

(2) Within one year after such employment has ceased, knowingly represent any other person (except the United States) in an appearance before or a communication with the Commission in connection with any particular matter, including a rulemaking proceeding, which is pending before the Commission or in which the Commission has a direct and substantial interest.[26]

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[21] The phrase "particular matter involving a specific party or parties" does not apply to general rulemaking, general policy and standards formulation or other similar matters. *See* § 737.5(c)(1) of the regulations of the Office of Government Ethics, Office of Personnel Management, 5 CFR 737.5(c)(1); *cf.* memorandum of the Attorney General dealing with the conflict-of-interest provisions prior to amendment by the Ethics in Government Act (which memorandum is reproduced in material following 18 U.S.C. 201 (1976 Edition)).

[22] Attention is directed to 18 U.S.C. 207(a), as amended by the Ethics in Government Act. Section 207(a) generally prohibits former Federal officers and employees permanently from knowingly representing any other person (except the United States) in an appearance before or a communication with any Federal (or District of Columbia) department, agency or court, or other enumerated entities, or any officer or employee thereof, in connection with any particular matter involving a specific party or parties in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while with the government.

[23] See n. 18 *supra.*

[24] Attention is directed to 18 U.S.C. 207(b)(i), as amended by the Ethics in Government Act. Section 207(b)(i) generally prohibits former Federal officers and employees, within two years after their Federal employment has ceased, from knowingly representing any other person (except the United States) in an appearance before or a communication with any Federal (or District of Columbia) department, agency or court, or other enumerated entities, or any officer or employee thereof, in connection with any particular matter involving a specific party or parties in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and which was actually pending under the official responsibility of the former officer or employee within one year prior to the termination of that responsibility.

[25] See footnote 18, *supra.*

[26] Attention is directed to 18 U.S.C. 207 (b)(ii) and (c), as amended by the Ethics in Government Act, which place restrictions on the representational activities of certain senior officers and employees after their departure from the government. Section 207(b)(ii) generally makes it unlawful for a former federal officer or employee who occupied a position specified in 18 U.S.C. 207(d)(1)(A), as amended, or designated pursuant to 18 U.S.C. 207 (d)(1)(C), as amended, within two years after leaving that position, knowingly to represent, or assist in the representation of, any other person (except the United States) by personal presence at an appearance before any federal (or District of

(d) *Exceptions.* The prohibitions contained in paragraphs (a), (b) and (c) of this section do not apply to communications solely for the purpose of furnishing scientific or technological information if approved by the Commission or to giving testimony under oath or making a statement which is subject to penalty or perjury.[27] Further, the prohibition contained in paragraph (c)(2) of this section does not apply to representation by elected state or local government officials or those whose principal occupation or employment is with a state or local government agency or instrumentality, an accredited degree-granting institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965 or a hospital or medical research organization which is exempted from taxation and defined under section 501(c)(3) of the Internal Revenue Code of 1954, 26 U.S.C. 501(c)(3), if the representation is on behalf of such an entity. Nor does the paragraph (c)(2) prohibition herein apply to appearances or communications concerning matters of a personal and individual nature or to an uncompensated statement in a particular area within the special knowledge of the former Commission member or employee.[28]

(e) *Reporting requirement.* Any former member or employee of the Commission who, within two years after ceasing to be such, is employed or retained as the representative of any person (except the United States) in connection with a matter in which it is contemplated that he will appear before or communicate with the Commission shall, within ten days of such retainer or employment, or of the time when appearance before or communication with the Commission is first contemplated, file with the General Counsel of the Commission a statement as to the nature thereof together with any desired explanation as to why it is deemed consistent with this section. Employment of a recurrent character may be covered by a single comprehensive statement. Each such statement should include an appropriate caption indicating that it is filed pursuant to this section. The reporting requirement of this paragraph does not apply to communications incidental to court appearances in litigation involving the Commission.

(f) *Definitions.* As used in this section, the phrase "appearance before the Commission" means any formal or informal appearance on behalf of any person (except the United States) before the Commission, or any member or employee thereof. As used in this section, the phrase "communication with the Commission" means any oral or written communication made to the Commission, or any member or employee thereof, on behalf of any person (except the United States) with an intent to influence. As used in this section, the term "represent" shall include not only the usual type of representation by an attorney, but also representation of a corporation in the capacity of an officer, director or controlling stockholder thereof. As used in paragraph (b) of this section, the term "official responsibility" has the meaning assigned to it in 18 U.S.C. 202, namely, the "direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action."

(g) *Advisory ruling.* Persons in doubt as to the applicability of this section may apply for an advisory ruling by addressing a letter requesting such a ruling to the General Counsel.

(h) *Procedures for administrative enforcement of statutory restrictions on post-Government employment conflicts of interest.*—(1) *Scope.* The provisions of this paragraph prescribe procedures for administrative enforcement of the restrictions which 18 U.S.C. 207 (a), (b) and (c), as amended, place on appearances before or communications with federal (and District of Columbia) departments, agencies and courts, and other enumerated entities, as well as the officers and employees thereof, by former Commission members and employees.

(2) *Investigations.* The General Counsel of the Commission, or his or her designee, shall conduct such investigations as he or she deems appropriate to determine whether any former Commission member or employee has violated 18 U.S.C. 207 (a), (b) or (c), as amended. The General Counsel shall report the results of his or her investigations to the Commission and shall recommend to the Commission such action as he or she deems appropriate.

(3) *Hearings.* Hearings required to be held under the provisions of this section shall be held before an Administrative Law Judge, utilizing the procedures prescribed by the Commission's rules of practice for adjudicatory proceedings (17 CFR Part 10), except to the extent that those rules are inconsistent with the provisions of this section. Any proceeding brought under the provisions of this section shall be prosecuted by the General Counsel or his or her designee.

(4) *Sanctions.* If the Commission finds, after notice and opportunity for a hearing, that a former Commission member or employee has violated 18 U.S.C. 207 (a), (b) or (c), as amended, the Commission may prohibit that person from making, on behalf of any other person (except the United States), any formal or informal appearance before, or with the intent to influence, any oral or written communication to, the Commission on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action.

§ 140.735–12 [Amended]

19. Section 140.735–12 is amended by redesignating footnote "22" as footnote "26", by inserting the letter "(A)" immediately following "2(a)(7)" in paragraph (a), by inserting the number "8" between the reference to "2(a)(7)(A)" and "9(d)" in paragraph (a), by adding a comma and the words "as amended" following the "Commodity Exchange Act" in paragraph (a), and by deleting the period at the end of paragraph (b) and inserting immediately thereafter "and Pub. L. 96–303, 94 Stat. 855–856, 5 U.S.C. 7301 note, the 'Code of Ethics for Government Service.' "

Columbia) department, agency or court, or other enumerated entities, or any officer or employee thereof, in connection with any particular matter involving a specific party or parties in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while with the government. In addition, section 207(c) generally prohibits such former officers and employees, for a period of one year following their departure from their department or agency, from knowingly making any appearance before or any communication with the department or agency in which they served, or any officer or employee thereof, on behalf of any other person (except the United States) in connection with any particular matter, including a rulemaking proceeding, pending before that department or agency, or in which the department or agency has a direct and substantial interest.

Attention is also directed to section 2(a)(7)(B) of the Commodity Exchange Act which applies to former Commission members, as well as former Commission employees who occupied positions classified at the GS–16 level or higher excepted from the competitive service by reason of their policymaking or confidential character. That provision generally prohibits such persons, for a period of one year after they cease to occupy their positions, from making any appearance before the Commission or making any written or oral communication to the Commission, or any member or employee thereof, on behalf of any other person (except the United States) in connection with any particular matter before the Commission. Appearances and responses relating to Commission subpoenas and solely personal and individual matters are excluded from this prohibition.

[27] Attention is directed to 18 U.S.C. 207(f) and (h), as amended by the Ethics in Government Act.

[28] Attention is directed to 18 U.S.C. 207(d)(2) and (i), as amended by the Ethics in Government Act.

§ 140.735–13 [Amended]

20. Section 140.735–13(b) is amended by removing the words "(obtaining prior approval for outside employment)" after the reference to § 140.735–5(e) and inserting in place thereof the words "(notification of outside employment)", removing the words "(filing of statement of employment and financial interests)" after the reference to § 140.735–7 and inserting in place thereof the words "(filing of statement of financial interests and outside employment and certification of compliance)", by redesignating footnote "23" as footnote "27" and by inserting the letter "(A)" after "2(a)(7)" in redesignated footnote 27.

§ 140.735–14 [Amended]

21. Section 140.735–14(b) is amended by removing the "." at the end of the sentence and inserting thereafter ", see § 140.735–8A.".

22. Section § 140.735–16(a) is revised to read as follows:

§ 140.735–16 Interpretative and advisory service.

(a) *Counselor for the Commission.* The General Counsel, or his or her designee, will serve as Counselor for the Commission and as the Commission's representative to the Office of Government Ethics, Office of Personnel Management, on matters covered by this subpart. The General Counsel will also serve as the Commission's designated agency ethics official to review the financial reports filed by high-level Commission officials under Title II of the Ethics in Government Act, as well as otherwise to coordinate and manage the Commission's ethics program.

* * * * *

23. Section 140.735–16(d) is amended by redesignating footnote "24" as footnote "28".

Issued by the Commission in Washingon, D.C. on May 27, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82–16781 Filed 6–21–82; 8:45 am]

BILLING CODE 6351–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 201, 230, 239, 249, 259, 260, 269, 274 and 279

[Release Nos. 33–6408, 34–18804, 35–22531, 39–732, IC–12475, and IA–808]

Relocation of Headquarters Offices; Miscellaneous Amendments

AGENCY: Securities and Exchange Commission.

ACTION: Miscellaneous amendments.

SUMMARY: The Securities and Exchange Commission plans to relocate its Headquarters offices from 500 North Capitol Street, 1100 L Street, NW., and 320 First Street, NW., Washington, D.C. to 450 Fifth Street, NW., Washington, D.C. 20549. These amendments are administrative in nature and will update references to the Commission's new location.

EFFECTIVE DATE: July 23, 1982.

Text of Amendments

Accordingly, 17 CFR Chapter II is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. By revising paragraph (a)(1) of § 200.11 to read as follows:

§ 200.11 Headquarters Office—Regional Office Relationship.

(a)(1) Division and Office Heads in the Headquarters Office (450 Fifth Street, NW., Washington, D.C. 20549) have Commission-wide responsibility to the Commission for the overall development, policy and technical guidance, and policy direction of the operating programs under their jurisdiction.

* * * * *

2. By revising paragraphs (a)(2), (c)(1) introductory text, (c)(2), (d)(1), (d)(6)(ii), (e)(7)(i), and (e)(7)(iii) of § 200.80 to read as follows:

§ 200.80 Commission records and information.

(a)(1) * * *

(2) *Records available for public inspection and copying; documents published and indexed.* Except as provided in paragraph (b) of this section, the following materials are available for public inspection and copying during normal business hours at the public reference room located at 450 Fifth Street, NW., Room 1024, Washington, D.C. and at the Regional Offices of the Commission, and, except for indices, they are published weekly in a document entitled "SEC Docket" (see paragraph (f)(2) of this section):

* * * * *

(c)(1) *Public reference facilities.* The Commission has a specially staffed and equipped public reference room located at 450 Fifth Street, NW., Room 1024, Washington, D.C. (202–523–5506) and public reference facilities in its regional offices. Coin-operated machines, which are available to requesters on a do-it-yourself basis, can be used to make immediate copies up to 8½ by 14 inches in size of materials that are available for inspection in the Washington, D.C., New York City, Chicago and Los Angeles offices.

(i) * * *

(2) *Public reference inquiries.* Inquiries concerning the nature and extent of records available at the Commission's public reference room in Washington or at its other public reference facilities may be made in person or by telephone. The addresses and telephone numbers of all Commission Regional and Branch Offices are set forth at paragraph (c)(1) of this section. Written inquiries may be addressed to the Securities and Exchange Commission, Public Reference Branch, 450 Fifth Street, NW., Washington, D.C. 20549, or to a particular regional office.

(d) *Requests for Commission records and copies thereof—*(1) *Time and place of request for inspection of records.* Requests for inspection of Commission records may be made in person during normal business hours at the public reference room located at 450 Fifth Street, NW., Room 1024, Washington, D.C. Requests for inspection of Commission records located in a regional office may be made in person during normal business hours at that regional office.

(6) * * *

(ii) The application should be delivered to the Public Reference Branch, Room 1024, 450 Fifth Street, NW., Washington, D.C., or sent by mail addressed to the Freedom of Information Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

* * * * *

(e) * * *

(7) * * *

(i) *Facsimile copies.* All requests for facsimile copies may be made either in person at the Commission's public reference room, 450 Fifth Street, NW., Room 1024, Washington, D.C., or by mail addressed to Securities and Exchange Commission, Public Reference Branch, Washington, D.C. 20549. Copies when authorized will be sent directly to the purchaser by the contractor unless attestation is requested. A person who has been provided with facsimile copies of records upon request will be billed by the contractor for his copying services at the rates shown in the Commission's current schedule of fees, plus postage, if any, and will be billed separately by the Commission for attestation and searching fees, if any. Special classes of copying services, including expedited delivery, to the extent available under the current contract, are described in the

Commission's current schedule of fees. Cost estimates with respect to facsimile copying will be supplied upon request.

(ii) * * *

(iii) *Transcripts of public hearings.* Copies of the transcripts of recent public hearings may be obtained from the reporter subject to the fees established annually by contract between the Commission and the reporter. Copies of that contract, which contains tables of charges, may be inspected in the public reference room, 450 Fifth Street, NW., Room 1024, Washington, D.C. and in each regional and branch office. Copies of other public transcripts may be obtained, in the manner of other Commission records, subject to the charges referred to in paragraph (e)(7)(i) of this Section.

* * * * *

3. By revising paragraphs (a) introductory text and (a)(2) of § 200.303 to read as follows:

§ 200.303 Times, places and requirements for requests pertaining to individual records in a record system and for the identification of individuals making requests for access to the records pertaining to them.

(a) *Place to make request.* Any request by an individual to be advised whether any system of records maintained by the Commission and named by the individual contains a record pertaining to him or her, or any request by an individual for access to a record pertaining to him or her that is contained in a system of records maintained by the Commission, shall be submitted by the individual in person during normal business hours at the Commission's Public Reference Room which is located at 450 Fifth Street, N.W., Room 1024, Washington, D.C., or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549. All requests will be required to be put in writing and signed by the individual making the request. In the case of requests for access that are made by mail, the envelope should be clearly marked "Privacy Act Request."

(1) * * *

(2) *Verification of identity.* When the fact of the existence of a record is not required to be disclosed under the Freedom of Information Act, 5 U.S.C. 552, as amended, or when a record as to which access has been requested is not required to be disclosed under that Act, the individual seeking the information or requesting access to the record shall be required to verify his or her identity before access will be granted or information given. For this purpose, individuals shall appear at the Commission's Public Reference Room located at 450 Fifth Street, N.W., Room 1024, Washington, D.C., during normal business hours of 9 a.m. to 4:30 p.m. e.s.t., Monday through Friday, or at one of the Commission's Regional or Branch Offices. The addresses and business hours of those offices are listed below:

* * * * *

4. By revising paragraph (a) of § 200.306 to read as follows:

§ 200.306 Requests for amendment or correction of records.

(a) *Place to make requests.* A request by an individual to amend or correct records pertaining to him or her may be made in person during normal business hours at the Commission's Public Reference Room located at 450 Fifth Street, N.W., Room 1024, Washington, D.C., or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

* * * * *

5. By revising paragraphs (a)(2) and (b)(1) of § 200.308 to read as follows:

§ 200.308 Appeal of initial adverse agency determination as to access or as to amendment or correction.

(a) * * *

(2) The application shall be delivered to the Securities and Exchange Commission, Public Reference Branch, Room 1024, 450 Fifth Street, N.W., Washington, D.C. 20549, or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

* * * * *

(b) * * *

(1) Such statement of disagreement shall be delivered to the Securities and Exchange Commission, Public Reference Branch, 450 Fifth Street, N.W., Room 1024, Washington, D.C. 20549, or mail to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549, within 30 days after receipt by the individual of the Commission's order denying the amendment or correction. For good cause shown this period can be extended for a reasonable time.

* * * * *

(6) By revising paragraph (a) of § 200.310 to read as follows:

§ 200.310 Fees.

(a) A request by an individual for copies of a record pertaining to him or her that is maintained by the Commission may be made in person during normal business hours at the Public Reference Room at 450 Fifth Street, N.W., Room 1024, Washington, D.C., or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549. There will be no charge assessed to the individual for the Commission's expense involved in searching for or reviewing the record. Copies of the Commission's records will be provided by a commercial copier or by the Commission at rates established by a contract between the copier and the Commission. In addition, copying machines are provided for public use in the public reference facilities in the Commission's Washington, D.C., New York City, Los Angeles and Chicago offices.

* * * * *

7. By revising paragraph (b) of § 200.554 to read as follows:

§ 200.554 Public availability of information.

* * * * *

(b) The location of publicly available environmental impact statements will be 450 Fifth Street, N.W., Room 1024, Washington, D.C.

* * * * *

PART 201—RULES OF PRACTICE

1. By revising § 201.5 to read as follows:

§ 201.5 Business hours.

The principal office of the Commission, at 450 Fifth Street, N.W., Washington, D.C. 20549, is open each day, except Saturdays, Sundays, and legal holidays, from 9 a.m. to 5:30 p.m., eastern standard time or eastern daylight saving time, whichever is currently in effect in Washington. Legal holidays consist of New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday in the District of Columbia by the President or the Congress of the United States.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By revising § 230.110 to read as follows:

§ 230.110 Business hours of the Commission.

The principal office of the Commission, at 450 Fifth Street, N.W., Washington, D.C. 20549, is open each day, except Saturdays, Sundays and holidays, from 9:00 a.m. to 5:30 p.m., eastern standard time or eastern daylight saving time, whichever is currently in effect in Washington, D.C.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. By revising paragraph (b) of § 239.0–1 to read as follows:

§ 239.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Any persons may inspect the forms at this address and at the Commission's regional offices. (See § 200.11 of this chapter for the addresses of SEC regional offices.)

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

1. By revising paragraph (b) of § 249.0–1 to read as follows:

§ 249.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Any person may inspect the forms at this address and at the Commission's regional offices.

(See § 200.11 of this chapter for the addresses of SEC regional offices)

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

1. By revising paragraph (b) of § 259.0–1 to read as follows:

§ 259.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Any person may inspect the forms at this address and at the Commission's regional offices.

(See § 200.11 of this chapter for the addresses of SEC regional offices)

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

1. By revising § 260.0–5 to read as follows:

§ 260.0–5 Business hours of the Commission.

The principal office of the Commission, at 450 Fifth Street, NW., Washington, D.C. 20549, is open each day, except Saturdays, Sundays and holidays, from 9:00 a.m. to 5:30 p.m eastern standard time or eastern daylight saving time, whichever is currently in effect in Washington, D.C.

PART 269—FORMS PRESCRIBED UNDER THE TRUST INDENTURE ACT OF 1939

1. By revising paragraph (b) of § 269.0–1 to read as follows:

§ 269.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Any person may inspect the forms at this address and at the Commission's regional offices.

(See § 200.11 of this chapter for the addresses of SEC regional offices)

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

1. By revising paragraph (b) of § 274.0–1 to read as follows:

§ 274.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Any person may inspect the forms at this address and at the Commission's regional offices.

(See § 200.11 of this chapter for the addresses of SEC regional offices)

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

1. By revising paragraph (b) of § 279.0–1 to read as follows:

§ 279.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Any person may inspect the forms at this address and at the Commission's regional offices.

(See § 200.11 of this chapter for the addresses of SEC regional offices)

Since these amendments are administrative in nature, the Commission finds that notice and comment procedures are unnecessary and therefore the amendments may become effective immediately.

Dated: June 10, 1982.

By the Commission.

George A Fitzsimmons,

Secretary.

[FR Doc. 82–16849 Filed 6–21–82: 8:45 am]

BILLING CODE 8010–01–M

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17 CFR Parts 200, 202, and 203

[Release Nos. 33–6409, 34–18810, 35–22536, 39–733, IC–12490, and IA–810]

Amendment of Rules Concerning Access to Files

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is amending its rules concerning access to investigative files to codify the staff's authority to grant requests for access to such files by receivers, special counsels, and other similar persons appointed by the court in enforcement proceedings brought by the Commission, and by the Securities Investor Protection Corporation ("SIPC"), trustees appointed in proceedings brought by SIPC for the protection of customers of broker-dealers, and counsel for SIPC trustees.

EFFECTIVE DATE: June 22, 1982.

FOR FURTHER INFORMATION CONTACT: Alan Rosenblat, Assistant General Counsel, Office of the General Counsel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 ((202) 272–2428).

SUPPLEMENTARY INFORMATION: The Commission frequently receives requests, from domestic and foreign governmental authorities and self-regulatory organizations, for access to investigative files. The Director of the Division of Enforcement has authority to grant such access. But in matters in which the Commission has entered a formal order of investigation, the concurrence of the General Counsel is also required. In addition, senior officials in the Division of Enforcement and the Regional Offices are authorized to engage in discussions with representatives of domestic or foreign governmental authorities and self-regulatory organizations concerning information obtained in individual investigations.

In addition to requests by law enforcement authorities, the Commission receives requests for access to investigative files by receivers and other similar persons appointed by the court in Commission enforcement proceedings, by SIPC, and by trustees appointed in proceedings brought under

Section 5 of the Securities Investor Protection Act. Receivers, special masters, special counsels, trustees, and other similar persons, as well as SIPC, may require access to the Commission's files in order to perform the tasks for which they have been appointed. For example, information gathered during the Commission's investigation may be useful in efforts to preserve the assets of a company or to locate customer property in the custody of a broker-dealer.

In the past the Commission itself has considered and acted on requests for access to the Commission's files by receivers and similar persons, SIPC, and SIPC trustees. The Commission is now amending its rules to codify the authority of the Director of the Division of Enforcement to grant or deny such requests in appropriate cases, and of officials in the Division of Enforcement and Regional Offices to discuss information obtained in the course of investigations with receivers and similar persons, SIPC, and SIPC trustees.

The Commission finds, in accordance with 5 U.S.C. 553(b)(A) of the Administrative Procedure Act ("APA"), that these amendments relate solely to agency organization, procedure, or practice, and that notice and public procedure in accordance with the APA are not necessary. In addition, the Commission finds that the foregoing action does not impose any burden on competition.

Statutory Authority

The Commission is adopting these amendments pursuant to its authority under sections 19 and 20 of the Securities Act of 1933 (15 U.S.C. 77s and 77t); sections 21 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78u and 78w); sections 18 and 20 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79r and 79t); sections 319 and 321 of the Trust Indenture Act of 1939 (15 U.S.C. 77sss and 77uuu); sections 38 and 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-37 and 80a-41); sections 209 and 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9 and 80b-11); and the Act of August 20, 1962, Pub. L. 87-592, 76 Stat. 344 (15 U.S.C. 78d-1, 78d-2), as amended by the Securities Acts Amendments of 1975, Pub. L. 94-29, 89 Stat. 163 (June 4, 1975).

List of Subjects

17 CFR Part 200

Administrative practice and procedure, Freedom of information, Privacy, Securities.

17 CFR Parts 202 and 203

Administrative practice and procedure, Investigations securities.

Text of Amendments

Parts 200, 202, and 203 of chapter II of Title 17 of the Code of Federal Regulations are amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. Section 200.19b is revised to read as follows:

§ 200.19b Director of the Division of Enforcement.

The Director of the Division of Enforcement is responsible to the Commission for the supervision and conduct of all of the enforcement activities under each of the acts administered by the Commission and the investigations relating thereto. The Director is responsible also for recommending the institution of administrative and injunctive actions arising out of such investigations and enforcement activities and for the determination of whether the available evidence supports the allegations in the proposed complaint. In addition, the Director is responsible, in collaboration with the General Counsel, for the review of cases to be referred to the Department of Justice with a recommendation for criminal prosecution, and for granting or denying requests by domestic and foreign governmental authorities, self-regulatory organizations, receivers, special counsels, and other similar persons appointed in Commission litigation, the Securities Investor Protection Corporation, and trustees and counsel for trustees appointed pursuant to section 5(b) of the Securities Investor Protection Act, for access to the Commission's files concerning non-public investigations.

2. In § 200.21 paragraph (a) is revised to read as follows:

§ 200.21 The General Counsel.

(a) The General Counsel is the chief legal officer of the Commission. He or she is responsible for the representation of the Commission in judicial proceedings in which it is involved as a party or as amicus curiae, for directing and supervising all civil litigation involving the Commission in the United States District Courts, and for representing the Commission in all cases in appellate courts. The General Counsel is responsible for the review of cases which the Division of Enforcement recommends be referred to the Department of Justice with a recommendation for criminal prosecution, and for the review of requests by domestic and foreign governmental authorities, self-regulatory organizations, receivers, special counsels, and other similar persons appointed in Commission litigation, the Securities Investor Protection Corporation, and trustees and counsel for trustees appointed pursuant to section 5(b) of the Securities Investor Protection Act, for access to materials contained in Commission files concerning non-public investigatory proceedings in which formal orders of investigation have been entered. In addition, he or she is responsible for advising the Commission at its request or at the request of any division director or office head, or on his or her own motion, with respect to interpretations involving questions of law; for reviewing and advising the Commission upon the legal aspects and policy implications of pre-argument memorandums and draft Commission opinions prepared by the Office of Opinions and Review; for the conduct of adminstrative proceedings relating to the disqualification of professional persons from practice before the Commission; for the preparation of Commission comments to the Congress on pending legislation; and for the drafting, in conjunction with appropriate divisions and offices, of legislative proposals to be sponsored by the Commission. The General Counsel is also responsible for the review and clearance of the form and content of articles, treatises, and prepared speeches and addresses by members of the staff relating to the Commission or to the statutes and rules administered by the Commission and is responsible for investigating any claims of staff improprieties. Additionally, he or she has responsibility with the Office of Opinions and Review for dealing with general problems arising under the Administrative Procedure Act, including (with the Office of Opinions and Review) the revision or adoption of rules of practice. He or she is responsible (with the Director of Personnel) for administering and interpreting the Commission's Conduct Regulation. He or she serves as Counselor to the Commission and its staff with regard to ethical and conflicts of interest questions and acts as the Commission's liaison on such matters with the Office of Personnel Management and the Department of Justice. The General Counsel also is responsible for coordinating and reviewing the interpretive positions of the various divisions and offices. In addition, he or

she is responsible for appropriate disposition of all Freedom of Information Act appeals pursuant to the authority delegated in § 200.30–14, and is the Commission's advisor with respect to legal problems arising under the Freedom of Information Act, the Privacy Act, the Federal Reports Act, the Federal Advisory Committee Act, the Civil Service laws and regulations, the statutes and rules applicable to the Commission's procurement, contracting, fiscal and related administrative activities, and other statutes and regulations of a similar nature applicable to a number of Government agencies.

* * * * *

3. In § 200.30–4 paragraph (a)(7) is revised to read as follows:

§ 200.30–4 Delegation of authority to Director of Division of Enforcement.

* * * * *

(a) * * *

(7) To grant requests for access to, or copies of, materials in the Commission's files concerning a non-public investigation upon written request for such access submitted by domestic and foreign governmental authorities, self-regulatory organizations, receivers, special counsels, and other similar persons appointed in Commission litigation, the Securities Investor Protection Corporation, and trustees and counsel for trustees appointed pursuant to section 5(b) of the Securities Investor Protection Act; *Provided* That, in matters in which the Commission has entered a formal order of investigation, such access shall be granted only with the concurrence of the General Counsel or his or her delegate.

* * * * *

PART 202—INFORMAL AND OTHER PROCEDURES

1. In § 202.5 paragraph (b) is revised to read as follows:

§ 202.5 Enforcement activities.

* * * * *

(b) After investigation or otherwise the Commission may in its discretion take one or more of the following actions: institution of administrative proceedings looking to the imposition of remedial sanctions, initiation of injunctive proceedings in the courts, and, in the case of a willful violation, reference of the matter to the Department of Justice for criminal prosecution. The Commission may also, on some occasions, refer the matter to, or grant requests for access to its files made by, domestic and foreign governmental authorities, self-regulatory organizations such as stock exchanges or the National Association of Securities Dealers, Inc., and other persons or entities.

* * * * *

PART 203—RULES RELATING TO INVESTIGATIONS

1. Section 203.2 is revised to read as follows:

§ 203.2 Information obtained in investigations and examinations.

Information or documents obtained by the Commission in the course of any investigation or examination, unless made a matter of public record, shall be deemed non-public, but the Commission approves the practice whereby officials of the Division of Enforcement at the level of Assistant Director or higher, and officials in Regional Offices at the level of Assistant Regional Administrator or higher, may engage in, and may authorize members of the Commission's staff to engage in, discussions with representatives of domestic or foreign governmental authorities, self-regulatory organizations, receivers, special counsels, and other similar persons appointed in Commission litigation, the Securities Investor Protection Corporation, and trustees and counsel for trustees appointed pursuant to section 5(b) of the Securities Investor Protection Act, concerning information obtained in individual investigations, including examinations and formal investigations conducted pursuant to Commission order.

By the Commission.

George A. Fitzsimmons,

Secretary.

June 10, 1982.

[FR Doc. 82-16850 Filed 6-21-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority regarding approval of new drug applications (NDA's) by redelegating to the Directors of Divisions conducting new drug evaluations authority to approve an additional class of NDA's to expedite the approval process. Published elsewhere in this issue of the **Federal Register** is a notice reorganizing the Bureau of Drugs and Bureau of Biologics into the National Center for Drugs and Biologics. This document also updates organizational references in accordance with the reorganization.

EFFECTIVE DATE: June 22, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: FDA is amending § 5.80 (21 CFR 5.80) by changing references to the Bureau of Biologics and the Bureau of Drugs as appropriate to conform to the new organization nomenclature and organizational placement in the new organization.

Section 5.80(a)(1) is amended to redelegate to the Directors of the Divisions of Anti-Infective Drug Products, Cardio-Renal Drug Products, Surgical-Dental Drug Products, Metabolism and Endocrine Drug Products, Neuropharmacological Drug Products, and Oncology and Radiopharmaceutical Drug Products of the newly created Office of New Drug Evaluation in the National Center for Drugs and Biologics, the authority to approve new drug applications for drug products that contain the identical active drug ingredient (e.g., the same salt of the same therapeutic moiety), or identical combination of active drug ingredients, in the same dosage form and strength, of an approved drug product already marketed in the United States by another firm, and that has, in its labeling, at least some of the therapeutic uses already approved for the marketed product(s). This supplements their previous authority to approve supplemental applications to approved new drug applications for drugs for human use.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52

Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 5 is amended by revising § 5.80, to read as follows:

§ 5.80 Approval of new drug applications and their supplements.

(a) The Director, Associate Director for Science, and Director of the Office of New Drug Evaluation of the National Center for Drugs and Biologics (NCDB) are authorized to perform all functions of the Commissioner of Food and Drugs with regard to approval of new drug applications and supplements thereto on drugs for human use that have been submitted under section 505 of the Federal Food, Drug, and Cosmetic Act, except that the Director of the Office of New Drug Evaluation, NCDB, is not authorized to approve those drug products under the jurisdiction of the Office of Biologics, NCDB, in § 314.1(a)(2) of this chapter for which authority has been delegated in paragraph (b) of this section.

(1) The Directors of the Divisions of Anti-Infective Drug Products, Cardio-Renal Drug Products, Surgical-Dental Drug Products, Metabolism and Endocrine Drug Products, Neuropharmacological Drug Products, and Oncology and Radiopharmaceutical Drug Products of the Office of New Drug Evaluation, NCDB, are authorized to perform all functions of the Commissioner of Food and Drugs with regard to approval of supplemental applications to approved new drug applications for drugs for human use that have been submitted under §§ 314.1(c) and 314.8 of this chapter and new drug applications for drug products that contain the identical active drug ingredient (e.g., the same salt of the same therapeutic moiety), or identical combination of active drug ingredients, in the same dosage form and strength, of an approved drug product already marketed in the United States by another firm, and that has, in its labeling, at least some of the therapeutic uses already approved for the marketed product(s), except those under the jurisdiction of the Office of Biologics, NCDB, in § 314.1(a)(2) of this chapter for which authority has been delegated in paragraph (b) of this section.

(2) The Associate and Deputy Associate Director for Drug Monographs and the Director of the Division of Generic Drug Monographs of the Office of Drugs, NCDB, are authorized to perform all functions of the Commissioner of Food and Drugs regarding the approval of abbreviated new drug applications and supplements thereto for drugs for human use that have been submitted under §§ 314.1(f) and 314.8 of this chapter, except those under the jurisdiction of the Office of Biologics, NCDB, in § 314.1(a)(2) of this chapter for which authority has been delegated in paragraph (b) of this section.

(b) The Director and Deputy Director of the Office of Biologics, NCDB, are authorized to perform all functions of the Commissioner of Food and Drugs with regard to approval of new drug applications and supplements thereto for drugs for human use designated in § 341.1(a)(2) of this chapter as being under the jurisdiction of the Office of Biologics, NCDB.

Effective date. This regulation is effective June 22, 1982.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: June 16, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-16931 Filed 6-21-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 172

[Docket No. 81F-0364]

Direct Food Additives: Food Additives Permitted for Direct Addition to Food for Human Consumption; Food Preservatives

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of natamycin (pimaricin) as an antimycotic agent on the surfaces of cuts and slices of cheese where provided for by specific standards of identity. This action is in response to a petition filed by G. B. Fermentation Industries, Inc.

DATES: Effective June 22, 1982; objections by July 22, 1982.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 8, 1981 (46 FR 60064), FDA announced that a petition (FAP 5A3067) had been filed by G. B. Fermentation Industries, Inc., 1 North Broadway, Des Plaines, IL 60016, proposing that the food additive regulations be amended to provide for the safe use of natamycin (pimaricin) as an antimycotic agent on surfaces of consumer-size cuts and slices of cheese where specifically provided for by the standards of identity for such cheeses.

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

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register.** No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 172

Food additives, Food preservatives, Spices and flavorings.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 172 is amended in Subpart B by adding new § 172.155 to read as follows:

§ 172.155 Natamycin (pimaricin).

(a) Natamycin (CAS Reg. No. 768-93-8), also known as pimaricin, is a polyene macrolide antimycotic substance possessing an empirical formula of $C_{33}H_{47}NO_{13}$ and a molecular weight of 665.7.

(b) The additive shall conform to the following specifications:

Purity: 97 percent ± 2 percent on an anhydrous basis.
Arsenic: Not more than 1 part per million.
Heavy metals (as Pb): Not more than 20 parts per million.

(c) The additive may be applied to the surface of cuts and slices of cheese to inhibit mold spoilage with the following limitations:

(1) The additive may be applied by dipping or by spraying, using an aqueous solution containing 200 to 300 parts per million of the additive.

(2) The additive may be applied to the surface of those cuts and slices of cheese(s) listed in Part 133 of this chapter only if the cheese standards provide for the use of "safe and suitable" mold-inhibiting ingredients.

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 22, 1982, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 22, 1982.

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

Dated: June 11, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-16782 Filed 6-21-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 79F-0478]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Antistatic and/or Antifogging Agents in Food-Packaging Materials

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of *N*-methacryloyl ethyl-*N,N*-dimethylammonium-α-*N*-methyl carboxylate, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer as an antistatic agent in polyolefin films. This action is in response to a petition filed by Mitsubishi Petrochemical Co.

DATES: Effective June 22, 1982; objections by July 22, 1982.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 15, 1980 (45 FR 10448), FDA announced that a petition (FAP 8B3390) had been filed by Mitsubishi Petrochemical Co., c/o SL Testing Institute, Enfield, CT 06082, proposing that the food additive regulations be amended to provide for the safe use of *N*-methacryloyl ethyl *N, N*-dimethylammonium-α-*N*-methylcarboxylate, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer as an antistatic agent in polyolefin films.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

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

The agency has previsouly considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register.** No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environmental and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.3130(b) by alphabetically inserting a new item in the list of substances to read as follows:

§ 178.3130 Antistatic and/or antifogging agents in food-packaging materials.

* * * * *

(b) * * *

List of substances	Limitations
* * * * *	
N-Methacryloyl ethyl-*N,N*-dimethylammonium-α-*N*-methyl carboxylate, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer. (CAS Reg. No. 64913-46-8).	For use only as an antistatic agent at levels not to exceed 0.2 percent by weight of polyolefin films that contact foods under the conditions of use B through H described in table 2 of § 176.170(c) of this chapter. The average thickness of such polyolefin film shall not exceed 0.02 centimeter (0.008 inch).
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 22, 1982 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that

objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 22, 1982.

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

Dated: June 15, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-16763 Filed 6-21-82; 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 animal drug regulations to reflect approval of a new animal drug application (NADA) filed by I.M.S., Inc., for use of a tylosin and sulfamethazine premix in the manufacture of swine feeds.

EFFECTIVE DATE: June 22, 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: I.M.S., Inc., 13619 Industrial Rd, Omaha, NE 68137, is sponsor of NADA 129–646 for Tylan 5 Sulfa, a premix containing 5 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine. The NADA provides for safe and effective use of the premix for subsequent manufacture of complete swine feed to be used for (1) maintaining weight gains and feed efficiency in the presence of atrophic rhinitis, (2) lowering the incidence and severity of *Bordetella bronchiseptica* rhinitis, (3) preventing swine dysentery (vibrionic), and (4) controlling swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*).

Approval of the application is based on safety and effectiveness data contained in Elanco Products Co.'s approved NADA's 12–491 and 41–275. Elanco has authorized FDA to refer to these applications to support approval of the application. Because this approval does not change the approved use of the drug, it poses no increased human risk from exposure to drug residues and does not affect the conditions of safe use in the target animal species. 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 would approval of a Catergory II supplement and does not require reevaluation of the safety and effectiveness data contained in NADA's 12–491 and 41–275.

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

§ 558.630 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.630 *Tylosin and sulfamethazine* by adding, in numerical sequence, drug sponsor code "050639" to paragraph (b)(9).

Effective date. June 22, 1982.

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

Dated: June 14, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-16631 Filed 6-21-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 697

Industries in American Samoa; Wage Order

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: Under the Fair Labor Standards Act, minimum wage rates in American Samoa are set by a special industry committee appointed by the Secretary of Labor. After such a committee has investigated conditions in American Samoa, it recommends minimum wage rates which much be published in the **Federal Register** and which become the new wage rates. Industry Committee No. 15 for American Samoa has completed its review and established new minimum wage rates, which are published herewith.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel F. Sweeney, Special Assistant, Office of Fair Labor Standards, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S3504, Washington, DC 20210, Phone: 202–523–7531.

SUPPLEMENTARY INFORMATION: Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064), as amended (29 U.S.C. 205, 206, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and by means of Administrative Order No. 656 (47 FR 4778), the Secretary of Labor appointed and convened Industry Committee No. 15 for Industries in American Samoa, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 8 of the act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and

recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950 and 29 CFR 511.18, the recommendations of Industry Committee No. 15 are hereby published, revising §§ 697.1 and 697.3 of Part 697, Title 29, Code of Federal Regulations.

Because, under sections 5, 6, and 8 of the Fair Labor Standards Act and 29 CFR 511.18, the Department has no authority to disapprove the recommended rates set by the industry committee, the Department finds, pursuant to 5 U.S.C. 553(b)(3)(B), that notice and public procedure thereon under the Administrative Procedure Act are not necessary.

The wage rates for government employees apply only to employees of the Government of American Samoa and its political subdivisions who are engaged in nontraditional activities. *In National League of Cities* v. *Usery*, 426 U.S. 833 (1976), the Supreme Court held that the minimum wage and overtime provisions of the Fair Labor Standards Act are not constitutionally applicable to the integral operations of the States and their political subdivisions in areas of traditional governmental functions. According to the Court, such functions include among others, schools and hospitals, fire prevention, police protection, sanitation, public health, and parks and recreation. Nontraditional functions, however, continue to be covered by the Fair Labor Standards Act. While this decision dealt with the 50 States and their political subdivisions, it is apparent, as a matter of statutory interpretation, that the restrictions imposed as a result of *National League of Cities* should be the same in American Samoa.

Determinations of whether particular functions are traditional will be made by the Courts or by the U.S. Department of Labor on a case-by-case basis. Determinations that particular functions are nontraditional will be published in the **Federal Register** in the form of amendment to Title 29 CFR 775.3. A determination was issued by the Wage and Hour Division of the Department of Labor on August 14, 1979, that American Samoa Government's communication system, electric utility, marine railway and liquor store should be considered nontraditional activities since these operations appear to be essentially no different from regular commerical operations in the United States. The amendment to Regulations § 775.3 incorporating these earlier decisions was published in the **Federal Register** on December 21, 1979.

The rates set forth herein for government workers apply only to such activities as are determined to be nontraditional. This document was prepared under the direction and control of Deputy Administrator, Herbert J. Cohen, Wage and Hour Division.

Classification

This rule is not classified as a "rule" under Executive Order 12291 on Federal Regulations because the Department is simply complying with the statutory requirement of publishing the recommendations of an industry committee in accordance with sections 5, 6, and 8 of the Fair Labor Standards Act. Pursuant to such sections, the Department is required to approve the recommendations of such industry committee and to publish such recommendations in the **Federal Register**. The performance of such a ministerial act by the Department does not constitute the promulgation of a "rule" under E.O. 12291.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b) the requirements of the Regulatory Flexibility Act, Pub. L. 96-354, Stat. 1164, 5 U.S.C. 601 et seq. pertaining to regulatory flexibility analysis, do not apply to this rule. See: 5 U.S.C. 601(c).

List of Subjects in 29 CFR Part 697

Minimum wages, American Samoa.

Accordingly, Part 697 of Chapter V of Title 29, Code of Federal Regulations is amended as set forth below.

PART 697—INDUSTRY IN AMERICAN SAMOA

Part 697 of Title 29 CFR is amended as follows:

1. The authority citation for Part 697 reads as follows:

Authority.—Secs. 5, 6, 8, 52 Stat., 1062, 1064; 29 U.S.C. 205, 206, 208.

2. Section 697.1 (a)(1), (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1), (h)(1), (i)(1), (j)(1), (k)(1), (l)(1), (m)(1), (n)(1), is revised to read as follow:

§ 697.1 Wage rates and industry definitions.

* * * * *

(a) *Fish canning and processing and can manufacturing industry.* (1) The minimum wage for this industry is $2.55 an hour effective July 1, 1983.

* * * * *

(b) *Shipping and transportation industry.* (1) The minimum wage for classification A, stevedore, lighterage and maritime shipping agency activity, is $2.53 an hour effective July 1, 1983. The minimum wage for classification B, all other activities, is $2.42 an hour effective July 1, 1983.

* * * * *

(c) *Tour and travel service industry.* (1) The minimum wage for this industry in $1.98 an hour for a period of 1 year following the July 1, 1982, effective date specified in § 697.3 and $2.13 an hour thereafter.

* * * * *

(d) *Petroleum marketing industry.* (1) The minimum wage for this industry is $2.53 an hour effective July 1, 1983.

* * * * *

(e) *Construction industry.* (1) The minimum wage for this industry is $2.00 an hour for a period of 1 year following the July 1, 1982, effective date specified in § 697.3 and $2.15 an hour thereafter.

* * * * *

(f) *Hotel industry.* (1) The minimum wage for this industry is $1.60 an hour effective July 1, 1983.

* * * * *

(g) *Retailing, wholesaling and warehousing industry.* (1) The minimum wage for this industry is $1.75 an hour for a period of 1 year following the July 1, 1982 effective date specified in § 697.3 and $1.85 an hour thereafter.

* * * * *

(h) *Laundry and dry cleaning industry.* (1) The minimum wage for this industry is $1.26 an hour for a period of 1 year following the July 1, 1982 effective date specified in § 697.3 and $1.32 an hour thereafter.

* * * * *

(i) *Bottling and dairy products industry.* (1) The minimum wage for this industry is $1.69 an hour for a period of 1 year following the July 1, 1982 effective date specified in § 697.3 and $1.84 an hour thereafter.

* * * * *

(j) *Printing and publishing industry.* (1) The minimum wage rate for this industry is $1.99 an hour for a period of 1 year following the July 1, 1982 effective date specified in § 697.3 and $2.09 an hour thereafter.

* * * * *

(k) *Finance and insurance industry.* (1) The minimum wage rate for this industry is $2.18 an hour for a period of 1 year following the July 1, 1982 effective date specified in § 697.3 and $2.31 an hour thereafter.

* * * * *

(l) *Private hospital and education institutions industry.* (1) The minimum wage rate for this industry is $1.60 an hour for a period of 1 year following the

July 1, 1982 effective date specified in § 697.3 and $1.66 an hour thereafter.

* * * * *

(m) *Government employees industry (nontraditional activities).* (1) The minimum wage rate for this industry is $1.79 an hour effective October 1, 1982.

* * * * *

(n) *Miscellaneous activities industry.* (1) The minimum wage rate for this industry is $1.59 an hour for a period of 1 year following the July 1, 1982 effective date specified in § 697.3 and $1.67 an hour thereafter.

* * * * *

3. Section 697.3 is revised to read as follows:

§ 697.3 Effective dates.

The wage rates specified in § 697.1 shall be effective as follows:

(a) Paragraphs (a), (b), (d), and (f) of § 697.1 are effective on July 1, 1983.

(b) Paragraph (m) of § 697.1 is effective on October 1, 1982.

(c) Paragraphs (c), (e), (g), (h), (i), (j), (k), (l), and (n) of § 697.1 are effective on July 1, 1982.

Signed at Washington, D.C. this 18th day of June, 1982.

William M. Otter,

Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc. 82-16908 Filed 6-21-82; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Removal of Conditions of Approval of the Utah Permanent Program

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

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 944 to remove certain of the conditions of approval of the Utah permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), to extend the deadline for the State to meet certain other conditions, and to impose a new condition of approval on the State's program.

Utah received conditional approval of its permanent program effective December 23, 1980. Utah submitted to the Department of Interior provisions to satisfy ten of the twelve conditions of approval. The Secretary is approving certain of the amendments submitted by the State and removing seven of the conditions of approval. With regard to certain other amendments the Secretary has determined they do not fully satisfy the conditions of approval and, therefore, he is granting the State additional time to submit further revisions. In addition, it has recently come to the Secretary's attention that a provision of Utah's program is inconsistent with the Federal requirements under SMCRA. Accordingly, the Secretary is imposing a new condition of approval to require the State to remedy this inconsistency.

EFFECTIVE DATE: The removal of these conditions of approval, the extension of the deadline for the State to meet certain conditions and the imposition of a new condition of approval are effective June 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION:

Background on the Utah Program Submission

On March 13, 1980, the State of Utah submitted to the Department of the Interior its proposed permanent regulatory program under SMCRA. On October 3, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program. Notice of that decision and the Secretary's findings were published in the **Federal Register** on October 24, 1980 (45 FR 70481-70510). The State of Utah resubmitted its program for approval by the Secretary on December 23, 1980. The resubmitted program included those portions of the initial submission not approved by the Secretary on October 3, 1980. After review of the program resubmission, the Secretary determined that the Utah program, including the resubmission, did, with minor exceptions, meet the requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary of the Interior conditionally approved the Utah program subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981 **Federal Register** (46 FR 5899-5915).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981 **Federal Register** (46 FR 5899-5915) and the March 25, 1981 **Federal Register** (46 FR 18541-18546).

Background on the Secretary's Conditional Approval

The Secretary of the Interior determined that the Utah program contained 12 minor deficiencies. The Secretary's approval of Utah's program was, therefore, subject to the State's adopting the following provisions:

(a) A statutory amendment which deletes the condition in section 40-10-10(d) UCA of the Utah CMRA which limits the Small Operator Assistance Program to receipt of funding from the Office of Surface Mining, to be consistent with section 507(c) of SMCRA.

(b) A statutory amendment which revises the dates for the following determinations to be consistent with the dates of SMCRA:

(1) The date for the establishment of the "grandfathering" for alluvial valley floors under section 40-10-11(2)(e)(ii) UCA/section 510(b)(5)(B) of SMCRA;

(2) The date for prime farmland permit application requirements under section 40-10-11(4) UCA/section 510(d)(2) of SMCRA;

(3) The date for the establishment of valid existing rights in section 40-10-24(4) UCA/section 522(e) of SMCRA;

(4) The date for the determination of substantial legal and financial commitments in section 40-10-24(1)(e) UCA/section 522(a)(6) of SMCRA.

(c) A statutory amendment which corrects the errors in sections 40-10-17(2)(j)(ii)(B) UCA and 40-10-16(4) UCA to be consistent with sections 515(b)(10)(B)(ii) and 519(d) of SMCRA.

(d) A statutory amendment which revises the jurisdiction of the Utah courts such that a suit against the United States cannot be conducted in a State court but only in a Federal court under section 40-10-21 UCA of the Utah CMRA, to be consistent with section 520 of SMCRA.

(e) A statutory amendment which recognizes "private" mineral estates under section 40-10-11(f) UCA to be consistent with section 510(b)(6) of SMCRA.

(f) Regulations adopting standards for the reduction of highwalls in UMC 817.101(b)(1) to be consistent with 30 CFR 817.101 and section 510 of SMCRA.

(g) Regulations adopting a sediment pond exemption provision in UMC

817.42(a)(3) consistent with 30 CFR 817.42(a)(3)(ii)(A).

(h) Regulations specifying that underdrains are required in all valley fills unless a waiver is granted in connection with an experimental practice approved by OSM, in UMC 817.72(b)/SMC 816.72(c) and specifying lifts for valley fills will not be greater than four feet, or less, if required by the regulatory authority, in UMC 817.72(c)/SMC 816.72(c) consistent with 30 CFR 817.72(c).

(i) Regulations adopting well transfer liability provisions in UMC 817.53(c) consistent with 30 CFR 817.53(c).

(j) Regulations providing for surface owner protection from the potential effects of subsidence in UMC 817.124(b)(1) and (3) consistent with 30 CFR 817.124(b)(1) and (3).

(k) Regulations prohibiting the placement of certain materials on the downslope in steep slope areas in UMC 817.101(c) consistent with 30 CFR 826.12(a).

(l) Regulations which allow monitoring as a subsidence control measure in UMC 784.20(c)(3)(v) consistent with 30 CFR 784.20(b)(3)(v).

In accepting the Secretary's conditional approval, Utah agreed to correct deficiencies "a"–"e" by December 1, 1981, and deficiencies "f"–"l" by July 1, 1981.

Subsequently, Utah requested an extension of the deadline to meet conditions "f", "g" and "h" until January 1, 1982. On October 30, 1981 (46 FR 54070), OSM announced its decision to grant the State's request.

Utah recently requested a second extension of the deadline for the State to meet conditions "f" and "h" until January 1, 1983. The State's request is currently under consideration by OSM.

Submission of Revisions

On June 29, 1981, Utah submitted statutory and regulatory revisions intended to satisfy ten of the 12 conditions including conditions "a"–"e", "g", and "i"–"l".

OSM published a notice in the **Federal Register** on February 18, 1982, announcing receipt of these provisions and inviting public comment on whether the proposed program amendments corrected the deficiencies (46 FR 7264–7266). The public comment period ended March 19, 1982. A public hearing was held on March 16, 1982, during which interested persons were provided an opportunity to make an oral or written presentation on the substantive adequacy of the program amendments submitted to satisfy conditions of approval.

Secretary's Findings

The Secretary finds the amendments submitted by Utah on June 29, 1981, satisfy conditions "a"–"e", "g", and "i"–"l" as follows:

1. Section 40–10–10(d)(3) of Utah House Bill No. 66 removes the condition which limits the Small Operator Assistance Program to receipt of funding from OSM. The State program, as amended, is consistent with section 507(c) of SMCRA; thus, the Secretary finds that the State has satisfied condition "a".

2a. Section 40–10–11(2)(e)(ii) UCA of Utah House Bill No. 66 establishes that the requirements contained in sections 40–10–11(2)(e)(i) UCA shall not affect surface coal mining operations conducted in the year preceding August 3, 1977. The State Act, as amended, is consistent with section 510(b)(5)(B) of SMCRA; thus, the Secretary finds that Utah has satisfied condition (b)(1).

b. Section 40–10–11(4)(b) UCA of Utah House Bill No. 66 establishes that the provisions of section 40–10–11(4) UCA shall not apply to permits issued prior to August 3, 1977. The State Act, as amended, is consistent with section 510(d)(2) of SMCRA; thus, the Secretary finds that Utah has satisfied condition (b)(2).

c. Section 40–10–24(4) UCA of Utah House Bill No. 66 establishes that, subject to valid existing rights, the prohibitions set forth in section 40–10–24(4) UCA shall not apply to surface coal mining operations which existed on August 3, 1977. The State Act, as amended, is consistent with section 522(e) of SMCRA; thus, the Secretary finds that Utah has satisfied condition (b)(3).

d. Section 40–10–24(1)(e) UCA specifies that the requirements of section 40–10–24(1) UCA for designating areas as unsuitable for surface coal mining shall not apply to surface coal mining operations in which a substantial legal and financial commitment had been made prior to January 1, 1977. The State Act, as amended, is consistent with section 522(a)(6) of SMCRA; thus, the Secretary finds that Utah has satisfied condition (b)(4).

3. Utah House Bill No. 66 corrects sections 40–10–17(2)(j)(ii)(B) UCA and 40–10–16(4) UCA to be consistent with sections 515(b)(10)(B)(ii) and 519(d) of SMCRA. Therefore, the Secretary finds that the State has met condition (c).

4. Utah House Bill No. 66 revises the jurisdiction of the Utah courts such that a suit against the United States cannot be conducted in a State court but only in a Federal court under section 40–10–21 UCA of the Utah CMRA. The State program, as amended, is consistent with section 520 of SMCRA and, therefore, the Secretary finds that the State has satisfied condition "d".

5. Utah House Bill No. 66, section 40–10–11(2)(f) changes "state mineral estate" to "private mineral estate." With this change, the Utah statute is consistent with section 510(b)(6) of SMCRA concerning the determination of property rights. Therefore, the Secretary finds that the State has met condition "e".

6. Utah amended regulations UMC 817.42(a)(3)(i) and 817.42(a)(3)(ii)(A)(B) provide that an exemption to the sedimentation pond requirements for drainage from areas affected by surface operations and facilities may be authorized only under limited circumstances. The State's program, as amended, applies the sedimentation pond exemption in a manner consistent with the requirements of 30 CFR 817.42(a)(3) with two exceptions. UMC 817.42(a)(3)(i)(B) provides that the person who conducts underground coal mining activities shall demonstrate that the drainage will not degrade the quality of receiving waters. However, the State regulation, as amended, does not specify what standards are to be used in determining whether the quality of receiving waters will be degraded.

Utah's regulation must specify that the regulatory authority will base its determination of whether the quality of receiving waters will be degraded by the drainage on applicable State and Federal water quality standards.

In addition, Utah's amended rule UMC 817.42(a)(3)(i) specifies that the regulatory authority may authorize an exemption from the sedimentation pond requirement if the underground mine operator demonstrates that the drainage *either* meets applicable effluent limitation standards *or* doesn't degrade the quality of receiving waters. The State's provision is inconsistent with OSM's regulation at 30 CFR 817.42(a)(3)(i) which requires that the operator demonstrate that the drainage meets *both* the effluent limitation standards and the water quality standards for receiving streams.

Because Utah submitted material to satisfy this condition which the State, in good faith, believed to be adequate, the Secretary has decided to extend the date by which Utah must submit new material to satisfy this condition. In order to allow Utah adequate time to draft and pass a suitable regulation, the Secretary hereby extends the date by which Utah must satisfy condition "g" to September 1, 1982.

7. Utah amended regulations UMC 817.53(c) and SMC 816.53(c) provide that upon an approved transfer of a well, the transferor shall be secondarily responsible to the regulatory authority for the transferee's obligations until release of the bond for the area in which the well is located. It is further specified that any legal liability of the transferor for damage to persons or property from the well shall be determined in accordance with applicable law.

The Secretary finds that Utah's amended rules are less effective than the corresponding Federal regulations. Under 30 CFR 816.53(c), the transferor shall be secondarily liable for damages to "persons or property from the well" until release of the bond. Utah's rules differ from their Federal counterparts in that the transferor is not secondarily liable for damage to persons or property but rather "secondarily responsible" to the regulatory authority for meeting the requirements of the State program regulations. Under Utah's regulation the legal liability of the transferor for damage to persons or property from the well would be determined in accordance with applicable law. The State provisions are, therefore, not as effective as the Federal regulations because the transferor is not held secondarily liable in all cases for damages to persons or property. Because Utah submitted material to satisfy this condition which the State, in good faith, believed to be adequate, the Secretary has decided to extend the date by which Utah must submit new material to satisfy this condition. In order to allow Utah adequate time to draft and promulgate a suitable regulation, the Secretary hereby extends the date by which Utah must satisfy condition "i" to September 1, 1982.

8. Utah amended regulation UMC 817.124(b) provides for surface owner protection from the potential effects of subsidence consistent with 30 CFR 817.124(b) (1) and (3). Therefore, the Secretary finds that the State has satisfied condition "j".

9. Utah's amended regulation UMC 817.101(c) which prohibits the placement of certain materials on the downslope in steep slope areas is consistent with 30 CFR 826.12(a) with one exception.

Utah has essentially adopted the language of 30 CFR 826.12(a) regarding placement of spoil on the downslope but has added the following sentence which appears to authorize an exemption from compliance with these standards under certain circumstances: "Nothing in this subsection (c) prohibits placement of the following materials on steep slopes in accordance with provisions of other performance standards". It is not clear from the wording of this sentence under what specific circumstances an exemption would be allowed. OSM has discussed this matter with the State and feels confident that Utah did not intend to provide a standard less effective than the Federal rule. However, to eliminate any ambiguity with regard to the State's provision, OSM has asked the State to submit a clarifying statement regarding the added sentence under UMC 817.101(c) explaining what "materials" could be placed on steep slopes under which "provisions of other performance standards". The Secretary has decided to extend the date for Utah to meet condition "k" until September 1, 1982, to allow the State time to submit the clarifying statement.

10. Utah amended regulation UMC 784.20(b)(3)(v) allows monitoring as a subsidence control measure consistent with 30 CFR 784.20(c)(3)(v). Therefore, the Secretary finds that the State has satisfied condition "l".

Public Comment

The Environmental Protection Agency (EPA) submitted a comment on Utah's amended rule UMC 817.42(a)(3) intended to satisfy condition "g" regarding the limitation of the exemption for persons conducting underground mining from the requirement for a sedimentation pond for drainage from areas affected by surface operations and facilities. EPA noted that Utah's provision indicates that an exemption from the sedimentation pond requirement may be authorized by the regulatory authority if the underground mine operator demonstrates that the drainage *either* meets applicable effluent limitation standards *or* doesn't degrade the quality of receiving waters. The commenter stated that the underground mine operator must comply with both the applicable effluent limitations *and* the applicable State and Federal water quality standards for downstream receiving waters. The Secretary agrees with EPA's point and, as noted in Finding 6, has granted Utah an extension of time to correct the identified deficiency in its provision.

The Minerals and Management Service (MMS) of the U.S. Department of the Interior also submitted comments on Utah's amendments. MMS made several points with regard to provisions of Utah's amended rules that are analogous to provisions of the Federal regulations. While the commenter's points may have merit, the Secretary cannot require the State to include in its program provisions which are more stringent than or which deviate from those contained in the Act and the Federal regulations.

OSM received a written comment on the proposed amendments submitted by Utah from Mr. Ted Crawford of Salt Lake City, Utah, the National Audubon Society and the Environmental Policy Institute. The commenters indicated they believed that the amendments submitted by Utah satisfied conditions "a"–"e", "j" and "l". The Secretary agrees with the commenters' position that the amendments satisfy conditions "a"–"e", "j" and "l". Accordingly, the Secretary is by this notice removing those conditions.

With respect to Utah amended rule UMC 817.42(a)(3), the commenters asserted that the amendment failed to satisfy condition "g" regarding the limitation of the exemption for persons conducting underground mining from the requirement for a sedimentation pond for drainage from areas affected by surface operations and facilities. The commenters stated that Utah's rule failed to limit the application of the sediment pond exemption to small areas as provided at 30 CFR 817.42(a)(3). They also stated that Utah's provision does not clarify how the regulatory authority shall determine that receiving streams will not be degraded by drainage from surface operations and facilities of underground mines.

The Secretary agrees that Utah's regulation does not specify what guideline will be used by the regulatory authority to determine whether receiving waters have been degraded by drainage from surface facilities and operations of underground mines. The Secretary has, therefore, granted the State an extension of time to submit additional materials to correct this deficiency (See finding 6). The Secretary does not believe that Utah's omission of a provision to limit the exemption from the sedimentation pond requirement to small areas is of critical concern provided the State program requires the regulatory authority to make the following assurances: (1) That any mixture of undisturbed drainage with a discharge from the underground workings be passed through a treatment facility as necessary and that the mixture meet the applicable State and Federal effluent limitation standards, and (2) the drainage from surface operations and facilities of underground mining operations not degrade the quality of receiving waters. As Utah's rules with one exception, are consistent with the Federal rules in these regards, the Secretary finds the State's provisions will correct condition "g" if the State corrects the deficiency noted in Finding 6.

Regarding Utah amended rules SMC/UMC 816.53(c) and 817.53(c), the commenters indicated that the State's rules fail to require that the transferor of a well be secondarily liable for damages to persons and property as required by 30 CFR 816.53(c) and 817.53(c) and do not, therefore, satisfy condition "i" of the Secretary's approval. The Secretary believes the commenters' points regarding Utah's amendment to satisfy condition "i" are valid. As noted in Finding 7, the Secretary has granted the State an extension of time to submit material to correct the identified deficiencies in the State's rules.

With respect to Utah amended rule UMC 817.101(c), the commenters noted that Utah has essentially adopted the language of 30 CFR 816.12(a) regarding placement of spoil on the downslope but has added a sentence which appears to authorize an exemption from compliance with these standards where placement of such materials is consistent with other performance standards. They assert that this exemption makes Utah's amendment less effective than the Federal rule. The Secretary agrees with the commenters' point that Utah's regulation to satisfy condition "k" contains language which could be misconstrued as an exemption to the requirements for placement of spoil on the downslope which is inconsistent with the Federal standard. Hence, as noted in Finding 9, the Secretary has granted Utah an extension of time to submit a clarifying statement relative to the ambiguous language in its regulation.

In addition to the written comments submitted by him and others, Mr. Frank Crawford provided oral comments at the hearing held March 16, 1982. Some of the points discussed by Mr. Crawford related to OSM's implementation of the Act, OSM's revisions of the Federal regulations, and OSM's approval of a cooperative agreement with Utah for the State to regulate surface coal mining operations on Federal lands within its borders. While the commenter's points may have merit they are not pertinent to the amendments being addressed in this rulemaking. Mr. Crawford did comment on the amendment submitted by Utah to satisfy condition "j" concerning Utah's regulation providing for surface owner protection from the potential surface effect of subsidence. Some of his points related to paragraph (a) of Utah regulation UMC 817.124. Condition "j" requires that Utah amend paragraphs (b)(1) and (b)(3) of UMC 817.124; therefore, paragraph (a) is not at issue in determining the adequacy of the State's submission in satisfying condition "j".

With respect to paragraph (b)(2) of Utah rule UMC 817.124, Mr. Crawford asserted that the phrase "to the extent technologically and economically feasible" should be removed. He alluded to a proposed change to 30 CFR 817.124 that would remove that phrase. For the purposes of deciding the adequacy of Utah's amendment in meeting the condition, the Secretary must rely on the Act and the Federal regulations in effect as the standard of approval. He cannot rely on proposed changes to the Federal rules. The Federal regulation in effect at 30 CFR 817.124(b)(2) includes the phrase "to the extent technologically and economically feasible" in the same context as in Utah's amended rule. The resubmitted version of UMC 817.124(b), in fact, reads almost verbatin the same as 30 CFR 817.124(b). The Secretary cannot require the State to include in its program provisions which are more stringent than the Federal standard. Hence, as noted in finding 8 above, the Secretary is approving Utah's amendment and removing condition "j".

Removal of Conditions

Accordingly, the Utah permanent program is hereby amended to indicate approval of the June 29, 1981, amendments which satisfy conditions "a"–"e", "j", and "l". 30 CFR 944.11 (a), (b), (c), (d), (e), (j), and (l) are hereby repealed and the deadline for Utah to satisfy conditions "g", "k" and "i" is extended to September 1, 1982. The removal of these conditions of approval of the Utah permanent program and the extension of the deadlines to meet three of the conditions are effective upon publication of this notice.

New Condition of Approval

In Utah's initial program submission of March 13, 1980, the State set forth at UMC/SMC 785.19(d) the permit application requirements for operations affecting designated alluvial valley floors. At UMC/SMC 785.19(e), the State prescribed the conditions that must be demonstrated by the applicant prior to conducting operations on lands west of the 100th meridian. Utah also added a provision at UMC/SMC 785.19(c) to waive the provisions of UMC/SMC 785.19 (d) and (e) where the Division determines that the proposed surface operation will not adversely affect the alluvial valley floor. In the October 24, 1980, **Federal Register** notice in which the Secretary partially approved and partially disapproved Utah's initial program submission (45 FR 70481–70510), the Secretary disapproved Utah's waiver provision at UMC/SMC 785.19(c). The Secretary found the State's provision inconsistent with 30 CFR 785.19 (c) and (d) which provide no waiver comparable to that included in Utah's program (See finding 4(d)(iv), 45 FR 70490).

The program resubmitted by Utah on December 23, 1980, included an amendment to UMC/SMC 785.19(c) deleting the provision which had allowed a waiver of the requirements of subsections (d) and (e) of UMC/SMC 785.19 where the Division determined that the proposed surface operation would not adversely affect an alluvial valley floor.

The amended version of UMC/SMC 785.19(c) was discussed under finding 4(d)(iv) in the January 21, 1981, **Federal Register** notice announcing conditional approval of the Utah State program (46 FR 5906). In that finding the Secretary noted that the amendment adopted by Utah on December 18, 1980, which deleted the waiver provisions, made the State's regulation consistent with 30 CFR 785.19 (c) and (d).

Recently it was brought to the Secretary's attention that the December 18, 1980, amendment to UMC/SMC 785.19(c) was not enacted, as stated in Finding 4(d)(iv), but merely proposed at the time of the Secretary's decision to conditionally approve the Utah program. The State has since not enacted the amendment. In discussing this matter with Utah, OSM has learned that the State does not wish to enact the amendment to UMC/SMC 785.19(c) as proposed in December 1980, but would prefer that OSM approve UMC/SMC.19(c) as it appeared in the State's initial program submission of March 13, 1980, which is the version of the rule now in effect.

OSM has completed its reexamination of Utah's rule and has found it to be inconsistent with the Act and OSM's regulations. OSM's provisions at 30 CFR 785 and 822: (1) Provide for the protection of essential hydrologic functions for all alluvial valley floors and (2) prohibit material damage to the quantity or quality of water systems that supply alluvial valley floors which are significant to farming.

With respect to the Federal requirements for insuring that the surface mining operation does not materially damage the quantity or quality of water, Judge Thomas Flannery ruled (*In re:* Permanent Surface Mining Regulation Litigation, Civil No. 79–1144 D.D.C., May 16, 1980) that the material damage requirements only apply to alluvial valley floors that are significant to farming. Hence, although OSM's regulations do not explicitly allow a waiver to the material damage requirements at 30 CFR 785 and 822,

under Judge Flannery's decision the regulatory authority cannot require an operator to comply with those requirements if a determination has been made that the alluvial valley floor is insignificant to farming. Regardless of the regulatory authority's determination with respect to the alluvial valley floor's significance to farming, the permit applicant must submit adequate information and analysis to allow the regulatory authority to determine that the operation will preserve the essential hydrologic functions of the alluvial valley floor, and must comply with the performance standards at 30 CFR 822 relative to the protection of the essential hydrologic function of the alluvial valley floor.

Utah's provision at 30 CFR 785.19(c) allows a waiver of the requirements for the protection of essential hydrologic functions as well as the material damage requirements. The State's provisions are, therefore, inconsistent with the Federal rules as interpreted by Judge Flannery which do not allow a waiver of the requirements for the protection of essential hydrologic functions, but only of the material damage requirements where the regulatory authority determines the alluvial valley floor is insignificant to farming.

Accordingly, the Secretary is requiring Utah to amend its program by deleting the waiver provision at UMC/SMC 785.19(c) or otherwise amend its program to be consistent with the Federal standard. The Secretary is imposing a new condition of approval on Utah's program at 30 CFR 944.11(m) requiring the State to correct the deficiency in its program by January 1, 1983. In a letter to the Director dated June 1, 1982, Mr. Cleon B. Feight, director of Utah's Division of Oil, Gas and Mining, Department of Natural Resources and Energy, agreed to satisfy the new condition by January 1, 1983.

Until the State submits an amendment to its program to satisfy condition "m", the Secretary will expect that the State regulatory authority will not exercise the discretion to waive requirements which it is currently allowed to do under UMC/SMC 785.19(c).

Additional Determinations

1. *Compliance With the National Environmental Policy Act.* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance With the Regulatory Flexibility Act.* The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance With Executive Order No. 12291.* On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining exemption from sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB is not needed for this program amendment.

4. *Concurrence of the Environmental Protection Agency.* On April 19, 1982, the Environmental Protection Agency transmitted its written concurrence on all the amendatory provisions addressed in this notice, with the exception of UMC 817.42(a)(3)(i) submitted by Utah to satisfy condition "g". As noted in Finding 6, the Secretary agrees with EPA that Utah's provision to satisfy condition "g" is inadequate and has granted the State an extension of time to correct the identified deficiencies in the State's provision.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 944 of Title 30 is amended as set forth herein.

Dated: May 13, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 944—UTAH

1. 30 CFR 944.10 is amended by revising (a) to read as follows:

§ 944.10 [Amended]

(a) The Utah State Program, as submitted on March 3, 1980, amended and clarified on June 16, July 24, 1980, and June 29, 1981, as resubmitted on December 23, 1980, is conditionally approved, effective January 21, 1981.

* * * * *

2. 30 CFR 944.11 is amended by removal of the material and reserving paragraphs (a), (b), (c), (d), (e), (j) and (l), by the revision of paragraphs (g), (i) and (k) and by the addition of a new paragraph (m) to read as follows:

§ 944.11 [Amended]

(a) [Reserved].
(b) [Reserved].
(c) [Reserved].
(d) [Reserved].
(e) [Reserved].
(f) * * *

(g) The approval in § 944.11 will terminate on September 1, 1982, unless Utah submits to the Secretary by that date copies of fully enacted regulations adopting a sediment pond exemption provision in U.M.C. 817.42(a)(3) consistent with 30 CFR 817.42(a)(3)(ii)(A), or otherwise amends its program to accomplish the same result.

(h) * * *

(i) The approval in § 944.11 will terminate on September 1, 1982, unless Utah submits to the Secretary by that date copies of fully enacted regulations adopting well transfer liability provisions to U.M.C. 817.53(c) consistent with 30 CFR 817.53(c), or otherwise amends its program to accomplish the same result.

(j) [Reserved].

(k) The approval in § 944.11 will terminate on September 1, 1982, unless Utah submits to the Secretary by that date copies of fully enacted regulations prohibiting the placement of certain materials on the downslope in steep slope areas in UMC 817.101(c) consistent with 30 CFR 826.12(a) or otherwise amends its program to accomplish the same result.

(l) [Reserved].

(m) The approval in §-944.11 will terminate on January 1, 1983, unless Utah submits to the Secretary by that date copies of fully enacted regulations deleting the provision at UMC/SMC 785.19(c) which allows a waiver of the requirements of subsections (d) and (e) of UMC/SMC 785.19 and of UMC/SMC 822, or otherwise amends its program to be consistent with 30 CFR 785.19 (c) and (d).

[FR Doc. 82-16848 Filed 6-21-82; 8:45 am]
BILLING CODE 4310-05-M

POSTAL SERVICE

39 CFR Part 233

Rewards

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The primary purpose of this rulemaking is to amend Postal Service regulations to increase the maximum amount of rewards for information and services leading to the arrest and conviction of any person for the following postal offenses: robbery; mailing of bombs or explosives; burglary of post office; theft or obstruction of mail; and offenses involving postal money orders. A new reward category pertaining to an assault on a postal

employee has also been added. A number of minor editorial and technical changes are also made to the regulations for the sake of clarity and uniformity.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: C. P. Nelson, (202) 245–5449.

SUPPLEMENTARY INFORMATION: To carry out the purposes described in the Summary above, the Postal Service adds a new 39 CFR 233.2(b)(1)(v) to show that an assault on a postal employee is now included among the postal offenses for which rewards for information and services are authorized. Also revised is the text of Notice 96 which follows paragraph (b)(2) of § 233.2.

List of Subjects in 39 CFR Part 233

Law enforcement, Crime, Postal Service.

Accordingly, 39 CFR is amended as follows:

PART 233—INSPECTION SERVICE AUTHORITY

In § 233.2 paragraph (b)(1)(v) is added and the text of Notice 96 in the note following paragraph (b)(2) is revised to read as follows:

§ 233.2 Circulars and rewards.

* * * * *

(b) * * *

(1) * * *

(v) Assault on postal employee.

(2) * * *

Note.— * * *

The United States Postal Service offers a reward up to the amounts shown for information and services leading to the arrest and conviction of any person for the following offenses:

Robbery, $10,000. Robbery or attempted robbery of any custodian of any mail, or money or other property of the United States under the control and jurisdiction of the United States Postal Service, if such custodian is not wounded or killed, or the custodian's life jeopardized; but NOT TO EXCEED $5,000 if the custodian is not wounded or killed, or his life jeopardized.

Bombs or Explosives, $10,000. Mailing or causing to be mailed any bombs or explosives which may kill or harm another, or injure the mails or other property, or the placing of any bomb or explosive in a postal facility, vehicle, depository or receptacle established, approved or designated by the Postmaster General for the receipt of mail.

Burglary of Post Office, $5,000. Breaking into, or attempting to break into a post office, station, branch, or a building used wholly or partially as a post office with intent to commit a larceny or other depredation in that part used as a post office.

Poisons, Controlled Substances, or Hazardous Materials, $1,000. Mailing or causing to be mailed any poison, controlled substances or hazardous materials.

Theft of Mail, $1,000. Theft or attempted theft of any mail, or the contents thereof, or the theft of money or any other property of the United States under the custody and control of the United States Postal Service from any custodian, postal vehicle, railroad depot, airport, or other transfer point, post office or station or receptacle or depository established, approved, or designated by the Postmaster General for the receipt of mail.

Offenses Involving Postal Money Orders, $1,000.

Altering, counterfeiting, forging, and unlawful uttering or passing of postal money orders.

Obstruction of Mail, $1,000. Obstructing or retarding the passage of mail, or any carrier or conveyance carrying the mail.

Assault on Postal Employees, $1,000. Forcibly assaulting any officer or employee of the Postal Service while engaged in or on account of the performance of their official duties.

Related Offenses

The United States Postal Service also offers rewards as stated above for information and services leading to the arrest and conviction of any person:

1. for being an accessory to any of the above crimes;
2. for receiving or having unlawful possession of any mail, money or property secured through the above crimes;
3. for conspiracy to commit any of the above crimes.

GENERAL PROVISIONS

1. The Postal Inspection Service investigates the above described crimes. Information concerning these violations, and requests for applications for rewards, should be furnished to the nearest Postal Inspector.
2. The term "custodian" as used herein includes any person having lawful charge, control, or custody of any mail matter, or any money or other property of the United States under the control and jurisdiction of the United States Postal Service.
3. The amount of any reward will be based on the importance of services rendered, character of the offender, risks and hazards involved, time spent, and expenses incurred. Amounts of rewards shown above are the maximum amounts which will be paid. Maximum rewards will be paid only when services rendered contributed significantly to the arrest and conviction of the offender.
4. The Postal Service reserves the right to reject a claim for reward where there has been collusion, criminal involvement, or improper methods have been used to effect an arrest or to secure a conviction. It has the right to allow only one reward when several persons were convicted of the same offense, or one person was convicted of several of the above offenses.
5. A written claim for reward payment must be submitted to the nearest Postal Inspector within six months from the date of conviction of the offender, or the date of formally deferred prosecution or the date of his death, if killed in committing a crime or resisting lawful arrest for one of the above offenses.

(39 U.S.C. 401(2), 404(8), 410(b)(2)))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration

[FR Doc. 82-16842 Filed 6-21-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2140-6]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On November 24, 1981, the Indiana Air Pollution Control Board submitted revisions to the ozone and total suspended particulate portions of its State Implementation Plan (SIP). The revisions are in the form of operating permits for Jeffboat, Incorporated; Tecumseh Pipe Line Company; and Wayne Transportation Corporation. The intent of today's rulemaking is to announce receipt and approval of the revisions. Further information on this revision is provided below.

DATE: This action is effective August 23, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604;

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460;

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

Comments on this action should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Sharon Reinders, (312) 886–6034.

SUPPLEMENTARY INFORMATION: On November 24, 1981, Indiana submitted revisions to its SIP in the form of operating permits for the following facilities.

1. Jeffboat, Inc., Jeffersonville;
2. Tecumseh Pipe Line Co., Schereville;
3. Wayne Transportation Division, Wayne Corp., Richmond.

In addition to all other regulations within the SIP that may be applicable to these facilities, the permits set the following specific emission limits:

Facility	Source	Operation	Pollutant	Emission limit	Attainment status designation
Jeffboat, Inc.	Plate shop	Paint spraying	Ozone[1]	110 lbs/hr, 2600 lbs/day, 340 t/y	Nonattainment.
		Metal cleaning	TSP[2]	5 lbs/hr, 15 t/yr	Do.
	Structural shop	Paint spraying	Ozone	88 lbs/hr, 2100 lbs/day 274 t/y	Do.
		Metal cleaning	TSP	14 lbs/hr, 43 t/yr	Do.
Tecumseh Pipe Line Co.	5 Tanks	Crude oil storage	Ozone	0.028 lb/day 10^3 gal., 107 t/yr total	Nonattainment.
	4 Tanks	do	Ozone	0.028 lb/day 10^3 gal., 86 t/y total	Do.
Wayne Corp.	12 Spray booths	Surface coating	TSP	2 lbs/hr, 2 t/yr	Unclassified.
	4 Touch up bays	do	Ozone	194 lbs/hr, 184 t/yr	Attainment.

[1] Emission Limits Pertain to Volatile Organic Compounds.
[2] Total Suspended Particulates.

The EPA believes that the limits incorporated into the permits developed by the State are acceptable because the permits will not interfere with attainment and maintenance of the appropriate national ambient air quality standards. Additionally, some of the permits set emission limits for sources previously exempted from control. The TSP emission limitations that EPA is rulemaking on today are in addition to those emission limitations contained in Indiana's general regulations, 325 IAC Articles 5 and 6. Furthermore, the volatile organic compound emission limitations are in addition to those emission limitations contained in 325 IAC Article 8. EPA will rulemake on 325 IAC Articles 5, 6, and 8 at a later date. Finally, the limitations EPA is approving today are not inconsistent with the required Reasonably Available Control Technology (RACT) level of control.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on August 23, 1982. However, if we receive notice by 30 days from the date of this notice that someone wishes to submit critical comments, *then* EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

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

Under 5 U.S.C. 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

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

Dated: June 16, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

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

1. Section 52.770(c) is amended by adding subparagraph (32) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(32) On November 24, 1981, Indiana submitted site specific emission limitations for Jeffboat, Inc., Jeffersonville; Tecumseh Pipe Line Company, Schererville, and Wayne Transportation Division, Richmond.

* * * * *

[FR Doc. 82-16785 Filed 6-21-82; 8:45 am]

BILLING CODE 6520-50-M

40 CFR Part 52

[A-7-FRL 2125-2]

Approval and Promulgation of Implementation Plans: State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The State of Missouri has submitted amendments to its State Implementation Plan (SIP) involving the prevention of significant deterioration (PSD) of air quality and new source review in nonattainment areas. On February 22, 1982, EPA proposed to approve draft regulations provided certain changes were made when the state submitted final rules. EPA received no comments in response to its proposed rulemaking. Today's notice is published to advise the public that EPA is approving the state's submission but is withholding action on the rules insofar as they pertain to the Columbia and New Madrid nonattainment areas. The rationale for this action is contained in this notice and the final technical support memorandum.

EFFECTIVE DATE: This promulgation is effective June 22, 1982.

ADDRESSES: Copies of the state's submission and EPA's technical evaluation are available at the following locations:

Air Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106

Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

Missouri Department of Natural

Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102

A copy of the state's submission is also available at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Wayne G. Leidwanger at (816) 374–3791 (FTS: 758–3791).

SUPPLEMENTARY INFORMATION: On August 7, 1980, EPA promulgated amended regulations for the review of new air pollution sources, including recommendations for the prevention of significant deterioration (PSD) of air quality and regulatory changes affecting new source review in nonattainment areas (45 FR 52676). SIP revisions to address these changes were due nine months after this promulgation.

On June 15, 1981, the State of Missouri submitted revisions to Rules 10 CSR 10–6.020, Definitions, and 10 CSR 10–6.060, Permits Required, to address the requirements of EPA's regulatory changes published on August 7, 1980. EPA approved (with certain conditions later fulfilled by the state) a prior version of the above regulations on May 9, 1980 (45 FR 30626), insofar as they met the requirements of Part D of the Clean Air Act. EPA reviewed the June 15 submission from the state to determine whether it met the regulatory changes published August 7, 1980. EPA identified certain deficiencies in the state's regulations which the state agreed to address.

On September 18, 1981, Missouri requested delegation of PSD authority until such time as the SIP revision could be approved. PSD delegation, subject to certain conditions dealing with those portions of the Missouri regulation which did not meet EPA's requirements, was granted on October 19, 1981. A notice of this action was published in the **Federal Register** on November 25, 1981 (46 FR 57757).

On November 13, 1981, the state submitted a proposed new Rule 10 CSR 10–6.060 and proposed changes to the definition of some terms in 10 CSR 10–6.020. EPA reviewed this draft submission and issued a notice of proposed rulemaking on February 22, 1982 (47 FR 7696). In that notice EPA proposed to approve the Missouri rules as meeting the requirements of Parts C and D of the Clean Air Act provided that (1) the state officially adopted and submitted the rules including certain revisions to address a number of items which were not consistent with EPA's regulatory requirements, (2) no other substantive changes were made to the rules and (3) there were no public comments which would affect the approvability of the submission. EPA also proposed to take no action on the rules insofar as they pertain to the Columbia and New Madrid nonattainment areas for the secondary standard for total suspended particulates (TSP). No comments were received in response to the notice of proposed rulemaking.

In the proposed rulemaking, EPA stated that the following changes in the rules were required prior to final rulemaking: (1) that PSD review be applicable to modifications of certain named sources when the modification itself is major, (2) that all offset emissions be binding upon the source from which they are obtained, (3) that when determining net emissions increases, decreases in actual emissions are creditable only to the extent that they are not relied on by the state to demonstrate attainment or reasonable further progress, and (4) that the state request EPA approval of air quality models not already approved for use by EPA. (For a further discussion of these issues, the reader should consult the notice of proposed rulemaking.) The state agreed to correct its rules as they pertain to these requirements. On April 15, 1982, the state submitted its new Rule 10 CSR 10–6.060 and amendments to Rule 10 CSR 10–6.020. The final rules correct all four deficiencies cited above.

In the notice of proposed rulemaking, EPA cited other provisions of Missouri's rules which were proposed for approval although they were not strictly consistent with EPA's requirements. EPA specifically solicited comments on these issues but none were received. Consequently, EPA is approving these provisions for the reasons cited in the February 22 notice.

The state's submission of April 15 includes other minor changes which do not alter the approvability of the rules as proposed by EPA.

With respect to the Columbia and New Madrid TSP nonattainment areas, EPA is taking no action regarding the application of Missouri's permitting rules for the reasons noted in the proposed rulemaking. The Missouri plan still lacks an approved new source review plan for these areas and the state's regulations establishing the attainment area (PSD) new source review program will not be enforceable by EPA in these nonattainment areas. The new source review requirements of the Emission Offset Policy (40 CFR Part 51, Appendix S) remain in effect for these areas. ACTION: EPA approves Missouri Rule 10 CSR 10–6.060, Permits Required, and the amendments to Rule 10 CSR 10–6.020, Definitions, as meeting the requirements of Parts C and D of the Clean Air Act, but EPA is taking no action on these regulations insofar as they pertain to the Columbia and New Madrid nonattainment areas.

In the notice on November 25, 1981, EPA stated that it had delegated, with certain conditions, the PSD program to the state under a previous version of its permitting rules. Effective today, that delegation is rescinded and the state will have authority to issue PSD and new source permits under its new rules.

EPA finds that good cause exists for making these amendments effective immediately. Sources seeking permits will be able to apply to the state under the new rules and will not be required also to comply with previous versions of the permitting regulations under which the program was delegated to the state.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the locations listed in the "Addresses" section above.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

This notice of final rulemaking is issued under authority of Sections 110 and 172 of the Clean Air Act, as amended.

Dated: June 16, 1982.

Anne M. Gorsuch,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart AA—Missouri

1. 40 CFR Part 52 is amended by adding § 52.1320(c)(37) to read as follows:

§ 52.1320 Indentification of plan.

* * * * *

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

* * * * *

(37) On April 15, 1982, the State of Missouri submitted a new Rule 10 CSR 10–6.060, Permits Required, and amendments to Rule 10 CSR 10–6.020, Definitions, involving the review and permitting of new sources of air pollution. Included in the plan are provisions relating to attainment area (PSD) new source review. No action is taken on the rules insofar as they pertain to the Columbia and New Madrid TSP nonattainment areas. Also included in the plan are provisions relating to new source review in the St. Louis, Kansas City and St. Joseph nonattainment areas.

§ 52.1339 [Amended]

2. 40 CFR Part 52 is amended by removing § 52.1339 (a) and (b).

[FR Doc. 82–16795 Filed 6–21–82; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 265

[SW–10–FRL 2143–8]

Partial Approval of Oregon Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region 10.

ACTION: Final rule; partial approval.

SUMMARY: As provided by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), the State of Oregon has received Federal financial assistance for development of a State solid waste management plan. The State of Oregon has submitted to the U.S. Environmental Protection Agency (EPA or the Agency) its adopted State solid waste management plan. Today, EPA is announcing its partial approval of the Oregon solid waste management plan. Partial approval of the Oregon plan indicates that the EPA is approving the portion of that plan that provides for State issuance of compliance schedules with regard to the open dumping prohibition. In obtaining partial approval of its plan, the State has committed to completing the plan in a timely and orderly manner.

EFFECTIVE DATE: June 22, 1982.

FOR FURTHER INFORMATION CONTACT: David Hanline, M/S 530, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442–2858.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979, (44 FR 45066) EPA published Guidelines for the Development and Implementation of State Solid Waste Management Plans. These guidelines were required by § 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

On September 23, 1981, (46 FR 47048) EPA published amendments to the Guidelines for Development and Implementation of State Solid Waste Management Plans and Criteria for the Classification of Solid Waste Disposal Facilities and Practices (40 CFR Parts 256 and 257). In part, these amendments allow EPA to give partial approval for that part of the adopted State plan that covers State issuance of compliance timetables while the State is developing the other parts of the plan. The completion of the remaining parts of the plan will be conducted in a timely and orderly manner as set forth in a schedule mutually agreed upon by the State and EPA.

Response to Comments

On November 4, 1981 at 46 FR 54772 the Oregon solid waste management plan was noticed for public review and comment. Comments on the Oregon plan were received for 30 days, and one comment was submittted during the comment period. The comment, not specifically addressed to Oregon's plan, expressed concern that restrictions might be placed on the use of disposables for food service and packaging. In response, Oregon's plan does support waste reduction as a policy. However, at present the plan includes no such restrictions.

A second comment was submitted after the close of the comment period. This comment was directed at the plan's support of flow control to ensure the long-range financial viability of resource recovery facilities. The commentor felt that such a policy was potentially a threat to recycling operations. In response, Oregon's policy is to give priority consideration to recycling over flow control. This policy is reflected in the plan where there is discussion of the primary emphasis the State places on the salvage, recycling, and reconstitution of solid waste. Furthermore, the State has indicated that the plan will be revised to give more explicit statement of this policy.

Finding

I have reviewed the solid waste management plan submitted by Oregon. I have found that the Oregon plan does not meet all the requirements of § 4007(a) of RCRA for approval. Because of limitations in State statutory authority, and because of the need for additional State Administrative Rules, Oregon does not at this time prohibit the establishment of new open dumps for all types of solid waste management facilities. Nor does Oregon have adquate legal authority to close or upgrade all existing open dumps.

Section 4005 of RCRA prohibits the open dumping of solid waste. However, the prohibition does not extend to any practice or disposal of solid waste under a compliance schedule which:

(1) Includes an enforceable sequence of actions leading to compliance with the prohibition on open dumping;

(2) Does not extend beyond September 13, 1984;

(3) Is preceded by a determination that the entity was unable to utilize other public or private alternatives for solid waste management to comply with the prohibition on open dumping; and

(4) Is issued by a State having an approved solid waste management plan.

The Oregon plan describes the State's legal authority to issue compliance schedules. The State of Oregon has authority to issue schedules to the following types of facilities for compliance with the following criteria established in 40 CFR Part 257:

a. Municipal and industrial landfills—all criteria; and

b. Non-agricultural landspreading operations—all criteria except "disease" (40 CFR Part 257.3–6).

For the remaining types of facilities—surface impoundments and agricultural landspreading operations—either statutory authority is inadequate, or regulations, by means of which compliance with the criteria can be ensured, have not been developed.

I am today approving that part of the plan that provides for the issuance of compliance schedules for the facilities and criteria described above. As of this date, those engaged in open dumping in Oregon may receive compliance schedules from the State that will, to the extent of the State's legal authority described above, protect them from open dumping suits as long as they remain in compliance with such schedules.

In accordance with § 256.04(f) Oregon has submitted a schedule outlining in a timely and orderly manner the steps that will be taken in completing the plan to meet the remaining requirements of § 4007(a) of RCRA for approval of the complete plan. Necessary legislative changes will be sought during the next legislative session in 1983. Rulemaking

will follow thereafter, and final rules will be adopted by July of 1984.

Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "major," and therefore subject to the requirement for a Regulatory Impact Analysis. Partial approval of the Oregon solid waste management plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise not from EPA's partial approval but because the plan complies with earlier requirements issued by EPA (Guidelines, 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257, as amended). Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget ("OMB") for review under Executive Order 12291.

(Sec. 4007(a), Pub. L. 94-580, 90 Stat. 2817 (42 U.S.C. 6947))

Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the partial plan approval of the Oregon solid waste management plan will not have a significant economic impact on a substantial number of small entities. This approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 256

Grant programs—environmental protection, Waste treatment and disposal.

Dated: May 26, 1982.

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 82-16793 Filed 6-21-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-433; RM-3803]

FM Broadcast Station in College and Fairbanks, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 280A to College, Alaska, in response to a petition filed by the Associated Students of the University of Alaska. The assignment could provide a first local radio service to College.

DATE: Effective August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20054

FOR FURTHER INFORMATION CONTACT: H. Berland, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order—Proceeding Terminated

Adopted: June 4, 1982.

Released: June 14, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (College and Fairbanks, Alaska), BC Docket No. 81-433 RM-3803.

1. The Commission has before it the *Further Notice of Proposed Rule Making*, 46 FR 60478, published December 10, 1981, which invited comments on a proposal to amend the FM Table of Assignments by assigning Channel 280A to College, or to Fairbanks, Alaska, in the alternative, in response to a petition from the Associated Students of the University of Alaska ("ASUA").

2. Comments and reply comments were filed by petitioner in support of the proposal. Additionally, Northern Television, Inc. (licensee of several Alaskan broadcast stations, including KTVF-TV, Fairbanks, Alaska) filed comments supportive of the proposed assignment to College, Alaska. Oppositions to the proposal were filed by Interior Broadcasting Corp. ("Interior") (licensee of Station KAYY (FM), Fairbanks, Alaska) and Prime Time Alaska, Inc. (licensee of KIAK(AM) and permittee for KQRZ(FM), Fairbanks, Alaska).

Background

3. The *Further Notice* proposed the assignment of Channel 280A to College, Alaska, provided it could be shown that College is a community. The *Further Notice* defined a community in terms of "the coalescence of common interests"[1] and sought additional information from petitioner demonstrating that College has an identity apart from the City of Fairbanks. In the event that ASUA could not show that College is a community, the *Further Notice* proposed to assign the channel to Fairbanks, Alaska.

4. In its comments, ASUA asserted that College, an unincorporated area within the Fairbanks North Star Borough and located approximately four miles from Fairbanks, qualifies as a community. ASUA stated that given the University's presence, the main focus of the community is higher education. ASUA represented that the University's resources are available and open to the public. According to ASUA, the business sector consists of several retail outlets [2] and two branch banks which serve the "campus community."

ASUA further asserted that College is not dependent upon Fairbanks for public services. ASUA stated, in this regard, that (1) the University provides utility service; (2) the Alaskan state troopers and University Security Patrol afford police protection, and (3) the University and Fairbanks North Star Borough give fire protection. ASUA also mentioned that College has three public schools, which are part of the Fairbanks North Star Borough School District. Although mail is addressed to Fairbanks, College has its own post office and zip code. Finally, ASUA stated that if Channel 280A were assigned to Fairbanks, Alaska, instead, it would apply to operate the station there.

5. In its comments, Interior argued that College is not a community under Commission rules. Rather, Interior described College as the commonly designated area that encompasses the University. College is said to have no political or geographical boundaries.[3]

[1] Citing. *North Naples, Florida*. 41 R.R. 2d 1549 (1978).

[2] Specifically, ASUA stated:

College * * * has two shopping malls. The smaller one has about six stores including a grocery store, liquor store, hair stylist, and laundromat. The other shopping mall, which is considerably larger, features a Safeway supermarket and a department store. In addition to the businesses in the two shopping malls, College has four gas stations, four restaurants, two sporting goods stores, one auto repair shop, one florist and a number of plumbing and heating repair and service shops.

[3] Since student associations generally are restricted by and subject to the control of the University or Board of Trustees, Interior questioned

Interior stated that College is more readily associated with the city of Fairbanks and that, for the most part, the station would be financially supported by the business community of Fairbanks. Other than the University itself, Interior claimed that there has been no demonstrable "coalescence of needs and interests" politically, socially or economically. Thus, Interior concluded that in the absence of community status the assignment to College is inappropriate. Interior claimed that the requested FM assignment to College is in reality a fifth assignment to Fairbanks. Interior asserted that an additional assignment to Fairbanks is unwarranted for two reasons. First, the assignment could exceed the population guidelines for a city of Fairbanks' size. Second, the assignment would create intermixture of classes of channels in Fairbanks.

6. ASUA filed reply comments reiterating its position that College is a community. ASUA denied that Fairbanks' boundaries encompass College and proffered a map to substantiate this assertion. As further indicia of community status, ASUA stated that College has a number of churches and civic groups, and is represented on the Fairbanks North Star Borough Council, the borough-wide governing authority. Further, ASUA noted that College residents receive water and sewer service from the College Utility Corporation. Additionally, to ascertain the attitude of those residing in the area, ASUA conducted an informal survey of residents within College and its surrounding area, and found 58.7 percent of the population within and 63 percent of the population outside College viewed it as a community, separate and distinct from the city of Fairbanks. Finally, ASUA asserted that the Commission's population guidelines and intermixture policy are liberally construed and would not preclude the assignment of an additional FM channel to either College or Fairbanks.

7. Northern Television Inc. stated that in addition to the factors set forth in ASUA's comments, several of which it repeated, the Commission should consider the 1970 Census recognition of College as a "place." Northern Television Inc. also expressed its belief that the assignment of an FM channel to College would "add to the 'identity' of College and develop even stronger community ties."

8. In its reply, Interior characterized the representations by ASUA as either "inaccurate" or "conveniently removed from their proper factual context." Interior described College in terms of a suburban residential overflow from Fairbanks which is more readily associated with Fairbanks. In this regard, Interior stated that the University is considered to be a part of Fairbanks, since it is the largest employer of Fairbank's residents and it provides an educational, cultural and athletic center for the entire Fairbanks community, not College alone. According to Interior, College's businesses are a part of Fairbanks Chamber of Commerce and College's churches, social and civic organizations serve the Fairbanks community as well. Moreover, Interior stated that College is merely one of forty "service areas" located within North Star Borough which comprise the area surrounding Fairbanks. According to Interior, College shares several governmental-type services (*i.e.*, fire protection and police protection, provided by the Alaskan State Troopers) with its surrounding areas, and its schools are a part of the North Star Borough School District. Interior also stated that College does not have its own governing body. Based on all of the foregoing, Interior concluded that College should not be accorded community status.

Discussion

9. Pursuant to section 307(b) of the Communications Act, FM channels are assigned to specific communities. For our purposes, a community refers to a specific locality where residents share common interests.[4] The proponent of the assignment has the burden of establishing the community status of the particular locality. If the locality is incorporated, we consider it to be a community. However, if the locality is unincorporated the proponent must furnish specific data establishing the locality as a community. After carefully reviewing the evidence submitted, we believe that ASUA has adequately established that College should be accorded community status. According to the map furnished by ASUA, College is shown separately and located outside the city limits of Fairbanks. ASUA has shown that College has several social and civic organizations and business establishments which identify themselves with the name of College. There are also two banks and a post office serving College. ASUA demonstrated that College is not dependent upon Fairbanks for governmental-type services. Although College appears to share some municipal services with the surrounding area, that interdependence is common for small towns. Finally, Northern Television, Inc. also urged the Commission to consider the fact that the 1970 Census designated College as a "place." The Census Bureau's listing of a particular locality is not conclusive as to community status, since the Census does not consider the various criteria utilized by the Commission in reaching its determination of community status. Rather the Census bases its decision to include a place in the listings on information submitted by the counties. However, Census recognition of a community often coincides with the Commission's determination of community status, and it is a factor we consider.

10. We believe that the above factors, taken together, demonstrate that College is a separate and distinct community. We also find that College is entitled to a first local aural service. Thus, we need not discuss Interior's objections to the assignment of an additional assignment to Fairbanks.

11. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, that effective August 10, 1982, the FM Table of Assignments, § 73.202(b) of the rules is amended with regard to College, Alaska, as follows:

City	Channel No.
College, Alaska	280A

12. It is further ordered, that this proceeding is terminated.

13. For further information concerning the above, contact H. Berland, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-16800 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

whether petitioner possesses the power and authority to become a Commission licensee. In a related context, Interior complained that the petitioner failed to specify whether it intended to operate an educational or commercial station. These objections could be summarily dismissed. First, character qualifications of licensees are treated at the application stage and thus need not be determined at this juncture. Second, it is clear that the petition sets forth ASUA's intention to operate a commercial station.

[4] *Coker, Alabama*, 43 R.R. 2d 190, 193 (1978).

47 CFR Part 73

[BC Docket No. 82-59; RM-3966]

FM Broadcast Station in Huntsville, Ark.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 240A to Huntsville, Arkansas, in response to a petition filed by Souwecco Communications Corporation. The assignment could provide a first local broadcast service to Huntsville.

DATE: Effective August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order—Proceeding Terminated

Adopted: June 3, 1982.

Released: June 11, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, BC Docket No. 82-59 RM-3966. (Huntsville, Arkansas)

1. The Commission herein considers the *Notice of Proposed Rule Making*, 47 FR 6452, published February 12, 1982, which seeks the assignment of Channel 240A to Huntsville, Arkansas, as its first FM assigment. The *Notice* was issued in response to a petition filed by Souwecco Communications Corporation ("petitioner"). Petitioner filed supporting comments. No oppositions to the proposal were received.

2. Huntsville (population 1,394),[1] seat of Madison County (population 11,373), is located approximately 200 kilometers (125 miles) northwest of Little Rock. It presently has no local aural service.

3. In its comments to the proposal, the petitioner refers to the data in the *Notice* which demonstrated the need for a first FM assignment to Huntsville. Petitioner also restated its intention to apply for the channel, if assigned.

4. Based on the need for a first local aural service we find the proposal justified. The transmitter site is restricted to 9.0 kilometers (5.5 miles) south of Huntsville to avoid short-spacing to Station KKBL at Monett, Missouri.

5. In view of the above and pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, that effective August 10, 1982, the FM Table of Assignments, § 73.202(b) of the rules, IS AMENDED with respect to the community listed below:

City	Channel No.
Huntsville, Ark.	240A

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-16798 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S. Census.

47 CFR Part 73

[BC Docket No. 82-65; RM-4006]

FM Broadcast Station in Avon, Colo.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 276A to Avon, Colorado, in response to a petition filed by Edward J. Patrick. The assigned channel could provide a first FM service to Avon, Colorado.

DATE: Effective August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order—Proceeding Terminated

Adopted: June 3, 1982.

Released: June 11, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations, BC Docket No. 82-65 RM-4006 (Avon, Colorado).

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 47 FR 6898, published February 17, 1982, proposing the assignment of Channel 276A to Avon, Colorado, as that community's first assignment in response to a petition filed by Edward J. Patrick ("petitioner"). Comments in support of the proposal were filed by the petitioner. No oppositions to the proposal were received.

2. Avon (population 640)[1] is located in Eagle County (population 13,171) approximately 16 kilometers (10 miles) west of Vail, Colorado. It has no local aural service.

3. In its comments, petitioner restated his intention to apply for Channel 276A if it is assigned. He also reaffirms the need for an FM assignment and urges the Commission to adopt his proposal.

4. In the *Notice of Proposed Rule Making* in this proceeding, the Commission rejected petitioner's request for a dual community assignment to Beaver Creek-Avon. The petitioner had not demonstrated that Beaver Creek could be accorded community status. The Commission stated that if petitioner could provide, in its supporting comments, a sufficient showing to establish Beaver Creek as a community pursuant to the Commission's criteria, then the assignment could be made to Beaver Creek. In his reply comments, petitioner stated that he did not offer information about components of community status for Beaver Creek because none exist. We are told that Beaver Creek is solely a ski resort which is adjacent to Avon and that the coupling of these two places was done solely because of their proximity. Petitioner fully supports the Commission's decision to assign Channel 276A to Avon.

5. The Commission has determined that the public interest would be served by assigning Channel 276A to Avon, Colorado, since it would provide the community with its first local FM service.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules, it is ordered, that effective August 10, 1982, § 73.202(b) of the Commission's rules, is

[1] Population figures extracted from 1980 U.S. Census Advance Report.

amended with regard to the following community:

City	Channel No.
Avon, Colo	276A

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1068, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-16799 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 47, No. 120
Tuesday, June 22, 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

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 217]

Optional Workfare Program

Correction

In FR Doc. 82–15579, appearing at page 24968, as part VI, in the issue of Tuesday, June 8, 1982, make the following change:

On page 24971, in the first column, § 272.1(g)(42), the last line should read "shall be in effect (30 days following publication of the final rule)."

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Proposed Suspension of Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions affecting the regulatory status of milk plants under the Nebraska-Western Iowa milk order. The action was requested by a cooperative association that operates several supply plants pooled under the order. The proposed suspension would remove for July and August 1982 the requirement that a cooperative association must deliver at least 51 percent of its member producer milk to pool distributing plants each month to qualify its supply plants as pool plants under the order. The cooperative claims that the action is needed to avoid inefficient handling and transportation of milk and to assure that its member dairy farmers who have regularly been associated with the market will continue to share in the market's fluid milk sales.

DATE: Comments are due not later than June 29, 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: Maruice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Services, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It also has 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 and the inclusion of July 1982 in the suspension period if this is found necessary. The request for this section was received June 14, 1982.

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.

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 Nebraska-Western Iowa marketing area is being considered for July and August 1982:

In § 1065.7(c) the words "51 percent or more of the."

All persons who want to comment on the proposed suspension should send two copies of their views to the Hearing clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than June 29, 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 July 1982 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours. (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would remove for July and August 1982 the requirement that a cooperative must deliver at least 51 percent of its producer milk to pool distributing plants each month, either through transfers from its supply plants or directly from farms, in order to qualify the supply plants as pool plants under the order. The suspension was requested by Mid-America Dairymen, Inc., a cooperative association that operates four pool supply plants under the Nebraska-Western Iowa order and which is a principal supplier of milk to other handlers in the market.

In support of its request, the cooperative stated that this spring it had to depool milk of some of its producers who have been regularly associated with the market in order to meet the 51 percent delivery requirement. It indicated this was because deliveries to pool distributing plants, which are used to qualify the cooperative's supply plants, decreased significantly. For instance, the cooperative states its deliveries to pool distributing plants were down over 6 percent in May 1982 from May 1981. It expects this situation to become more serious during July and August due to the closing of schools and depressed economic conditions.

In the absence of the suspension action, the cooperative estimates that it may be necessary to remove from the market as much as 10 million pounds of its member milk during each month of July and August in order to meet the 51 percent delivery requirement. To the extent possible, the cooperative wants to avoid such costly and inefficient movements of milk solely for the purpose of pooling its supply plants and the milk of its member producers who regularly have supplied the fluid needs of the market.

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on June 17, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-16852 Filed 6-21-82; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Proposed Revision of REA Requirements for Electric System Planning

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend Appendix A—REA Bulletins by revising REA Bulletin 60-2, Electric System Capacity. Bulletin 60-2 sets forth REA policy with respect to the system planning and the electrical capacity of electric distribution and transmission systems financed by REA. The purpose of this proposal is to consolidate all REA requirements concerning electric system planning into a single bulletin. Currently such requirements are contained in Bulletin 60-2 and Bulletin 60-10, Construction Work Plans, Electric Distribution Systems. In addition, the proposal clarifies the requirement for REA borrowers to prepare long-range engineering plans and construction work plans. Bulletin 60-2 will be retitled "Electric System Planning Requirements and System Capacity." There are no new requirements contained in the revision of Bulletin 60-2 which are not already contained in the existing bulletins.

DATE: Public comments must be received by REA no later than August 23, 1982.

ADDRESS: Submit written comments to Archie Cain, Director, Engineering Standards Division, Rural Electrification Administration, Room 1270, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Limberger, Engineering Services Branch, Rural Electrification Administration, Room 1257, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382-9093. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR Part 1701, Appendix A—REA Bulletins, by revising REA Bulletin 60-2, Electric System Capacity, and removing REA Bulletin 60-10, Construction Work Plans, Electric Distribution Systems, from Appendix A. This proposed action has been reviewed in conformance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major". This proposed action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A-95 review requirements. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). These provisions would not be effective until OMB approval had been obtained.

This proposed action is intended to clarify the requirement for each REA electric borrower to periodically prepare long-range engineering plans and construction work plans and to construct its system in accordance with those plans. The revision also is intended to consolidate, in Bulletin 60-2, all REA rules concerning electric system planning, some of which are presently included in Bulletin 60-10.

A copy of the proposed Bulletin 60-2 is available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

List of Subjects in 7 CFR Part 1701

Administrative practice and procedure, Electric utilities, Loan programs—electric.

Dated: June 3, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-16723 Filed 6-21-82; 8:45 am]

BILLING CODE 3410-15-M

Animal and Plant Health Inspection Service

9 CFR Part 166

Advisory Committee on Swine Health Protection; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a meeting.

SUMMARY: The purpose of this document is to give notice of a meeting of the Secretary's Advisory Committee on Swine Health Protection to discuss the proposed rule implementing the Swine Health Protection Act and to review the information gathered from surveys of the swine health protection programs in the individual States and territories.

DATES: The meeting will be held on July 7, 1982, from 8:15 a.m. to 4:00 p.m., and July 8, 1982, from 8:15 a.m. to 4:00 p.m.

ADDRESS: The meeting will be held in Room 3109, Agriculture South Building, United States Department of Agriculture, 14th and Independence Avenue, SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. J. A. Downard, Senior Staff Veterinarian, Swine and Poultry Diseases Staff, APHIS, VS, Federal Building, Room 841, Hyattsville, Maryland 20782, 301-436-8438.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to advise the Secretary of Agriculture concerning matters within the scope of the Swine Health Protection Act, including the evaluation of State programs for the purpose of section 10 of the Act, and assuring effective coordination among State programs and Federal and State programs concerning the treatment of garbage fed to swine.

The primary purpose of this meeting is to review the information gathered from surveys of the swine health protection programs in the individual States and territories. The review will be used to assist in establishing criteria for determination of the primary enforcement responsibilities. Part of the meeting time will be allotted for discussion of the proposed regulations and comments on these proposed regulations published April 16, 1982 (47 FR 16534).

The meeting is open to the public. Written statements concerning these

matters may be filed with the committee before or at the time of the meeting.

Written statements may be forwarded to Dr. J. A. Downard, Senior Staff Veterinarian, Swine and Poultry Diseases Staff, APHIS, VS, Federal Building, Room 841, Hyattsville, MD 20782, 301–436–8438.

Dated: June 17, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82–16923 Filed 6–18–82; 3:50 pm]

BILLING CODE 3410–34–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. I

Examination for Compliance with State Unclaimed Property Laws; Proposed Interpretive Ruling and Policy Statement

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed Interpretive Ruling and Policy Statement.

SUMMARY: Prior to 1980, it was the NCUA's position that state agencies were not empowered to examine Federal credit union records. In November, 1980, the NCUA Board adopted an interim policy that provided, inter alia, that NCUA would not object to limited inspections of Federal credit union records by state authorities for the purpose of determining compliance with state unclaimed property laws. If approved by the NCUA Board, this Proposed Interpretive Ruling and Policy Statement would finalize that interim policy by providing for a general designation of state authorities to conduct limited inspections of Federal credit union records for determining compliance with unclaimed property laws.

DATE: Comments must be received on or before July 30, 1982.

ADDRESS: Send comments to Rosemary Brady, Secretary to the NCUA Board, National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: James J. Engel, Assistant General Counsel, Department of Legal Services, at the above address or telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION: At its November 6, 1980 meeting, the NCUA Board addressed the issue of access to Federal credit union (FCU) records by state agencies for purposes of determining compliance with state abandoned property or unclaimed property laws. Prior to this meeting, NCUA had taken the position that state agencies did not have the authority to examine FCU records for any purpose, but it was the Agency's opinion that FCU's were required to report and release abandoned property in compliance with state laws.

As a result of that meeting, the NCUA Board adopted an informal interim policy as follows:

a. NCUA would not object to limited inspections of FCU share account records (not loan type or related records) by state departments of revenue (or their equivalent) for the purpose of determining compliance with state unclaimed property laws;

b. States would not be permitted to take enforcement actions against FCU's found not to be in compliance but should submit findings to NCUA Regional Offices, enforcement being exclusively within the jurisdiction of NCUA; and

c. NCUA would object to any attempts by a state to assess a fee on an FCU for the inspection.

The purpose of the Interpretive Ruling and Policy Statement would be to formalize the Agency's position on access to FCU records for purposes of determining compliance with state unclaimed property laws. The NCUA Board recognizes the interest states have in assuring such compliance and that the issue is one of particular importance to the states. Because the unclaimed property law of each state may vary, it is more practical to have inspections conducted by parties familiar with the law of a particular state. For these reasons, the NCUA Board believes it is more appropriate to permit limited inspections for determining compliance to be conducted by state authorities. In order to accomplish this result, the NCUA Board proposes, through publication of an Interpretative Ruling and Policy Statement as set forth below, to designate appropriate state authorities to conduct such limited inspections of Federal credit union records. The authorities to be designated are those, such as a Commissioner of Revenue or Director of Financial Institutions, that are empowered under state law to require the filing of unclaimed property reports and authorized to make examinations to determine compliance with such laws.

This designation, however, does not authorize state authorities to bring enforcement actions against Federal credit unions for failure to comply with the state laws. Enforcement remains exclusively within the jurisdiction of the NCUA Board. If the state authorities find violations of the unclaimed property laws, such findings should be reported to an NCUA regional office. Enforcement of the state statute as to Federal credit unions is the responsibility of the NCUA Board.

In addition, the designation of state authorities to conduct limited inspection does not include the authority to assess fees for the inspection.

Proposed Interpretive Ruling and Policy Statement (IRPS) 82–4

Section 106 of the Federal Credit Union Act (12 U.S.C. 1756) provides that the books and records of each Federal credit union are subject to examination by, and accessible to, any person designated by the National Credit Union Administration Board (NCUA Board). Pursuant to this authority, the NCUA Board is providing a general designation for the conducting of limited inspections of Federal credit records for the purpose of determining compliance with state unclaimed property laws. Those state authorities, authorized under state law to conduct inspections pursuant to the Uniform Disposition of Unclaimed Property Act or similar abandoned property law, are designated by the NCUA Board as its representative for this limited purpose.

It has been the position of the National Credit Union Administration that Federal credit unions are required to comply with state unclaimed property laws. Recognizing that states have an interest in assuring compliance with these laws, it is the NCUA Board's position that limited access to Federal credit union records by appropriate state authorities for the above stated purpose is both reasonable and proper. However, the NCUA Board maintains its position that enforcement remains exclusively within the jurisdiction of NCUA. Therefore, any violations should be reported to the appropriate NCUA regional office. In addition, it is the NCUA Board's position that Federal credit unions are not subject to the imposition of fees for a state inspection.

By the National Credit Union Administration Board.

Rosemary Brady,

Secretary to the Board.

June 16, 1982.

[FR Doc. 82–16804 Filed 6–21–82; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 155 and 172

[Docket No. 81N-0049]

Canned Vegetables; Mushrooms; Standards of Identity and Fill of Container

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the standard of identity for canned mushrooms based on consideration of the Recommended International Standard for Canned Mushrooms developed by the Codex Alimentarius Commission. FDA is also proposing to amend the standard of fill of container based on consideration of a petition by the National Food Processors Association (NFPA) and the Recommended International Standard for Canned Mushrooms. This action would promote honesty and fair dealing in the interest of consumers and would facilitate international trade. The agency is also proposing a conforming amendment in the food additive regulation on calcium disodium ethylenediaminetetraacetate.

DATES: Written comments by August 23, 1982. The agency proposes that any final rule that may issue based upon this proposal become effective in accordance with a uniform effective date for compliance with food labeling requirements which is announced by notice in the **Federal Register** and which is not sooner than 1 year following publication of any final rule based upon this proposal, except for any provision that may be stayed by the filing of proper objections. See "Supplementary Information" for a full discussion of the proposed effective date.

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

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization/World Health Organization (FAO/WHO) Codex Alimentarius Commission has submitted to the United States for consideration for acceptance a Recommended International Standard for Canned Mushrooms (CAC/RS 55-1972) (Codex standard). Also, a petition has been filed by NFPA, 1133 20th St. NW., Washington, DC 20036, to revise the minimum drained weight requirements for canned mushrooms.

FDA proposes to revise the standard of identity in § 155.201(a) (21 CFR 155.201(a)) and to amend the U.S. standard of identity for canned mushrooms currently set out in the U.S. standard of identity for certain other canned vegetables under § 155.200 (21 CFR 155.200), to:

1. Define canned mushrooms as being of the species *Agaricus (Psalliota) bisporus* or *A. bitorquis;*

2. Provide for mushrooms to be heat processed to prevent spoilage either before or after being sealed in a container;

3. Define optional styles and provide for "quarters" and "random sliced" as additional styles; and

4. Provide for optionally packing canned mushrooms in either water or other suitable liquid medium.

FDA also proposes to amend the U.S. fill of container standard (§ 155.201(c)) to establish a minimum fill of container (packing medium and mushroom ingredient) requirement, revise the drained weight requirements for certain can sizes of canned mushrooms, and establish a procedure for determination of compliance with the standard.

The United States, as a member of the Food and Agriculture Organization of the United Nations and of the World Health Organization, is under obligation to consider all Codex standards. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. Products that do not comply with an accepted Codex standard, whether domestic or imported, will not be permitted to be distributed under the name and description established by the standard without restrictions. The restrictions that may be imposed are not incorporated in the Codex standard; these elective restrictions are left to legislation and regulations of the individual countries. A participating country which concludes that it cannot accept the Codex standard in any of the three ways is requested to indicate, with the reasons therefor, the manner in which its requirements differ from the Codex standard, and whether products complying with the Codex standard will be permitted to move freely in the commerce of that country. Members of the Commission are requested to notify the Secretariat of the Codex Alimentarius Commission—Joint FAO/WHO Food Standards Programme, FAO, Rome, Italy, of their decision.

For many years, the United States has had a standard of identity for canned mushrooms (§ 155.201(a)) referenced to the applicable provisions of § 155.200 *Certain other canned vegetables* (U.S. standard). There is no U.S. standard of quality for canned mushrooms. However, there are voluntary standards for marketing developed by the United States Department of Agriculture (USDA) for canned mushrooms (USDA voluntary grade standards), which include, in addition to identity requirements, quality criteria and recommendations for fill of container based on drained weights.

Because FDA is unaware of any economic abuse associated with the food and because of FDA's policy of limiting the number of regulations, the agency is not proposing a quality standard for canned mushrooms. Canned mushrooms that comply with the quality aspects of the Codex standard may move freely in interstate commerce in this country, providing they comply with applicable U.S. laws and regulations. FDA will consider proposing a quality standard for canned mushrooms upon receipt of a petition demonstrating that to do so would be in the interest of consumers.

NFPA requests that the drained weight requirement for mushrooms packed in large cans be reduced because of the high incidence of bacterial spoilage in these containers. NFPA attributes the problem to overfilling to meet the drained weight requirement and proposes to reduce the drained weight requirement for these cans so that the ratio of mushrooms-to-water capacity of the container is not less than 56 percent, which is the same ratio required for the can sizes which have not had a high incidence of bacterial spoilage.

In the **Federal Register** of December 9, 1977 (42 FR 62282), FDA proposed to require label declaration of the drained weight or, alternatively, the solid content weight (fill weight) on most canned fruits and vegetables. FDA also proposed to amend the U.S. standards of fill of container for various canned fruits and vegetables including canned mushrooms. A final rule based on the December 9, 1977, proposal has not been issued. To expedite consideration of the

Codex standard and the NFPA petition, FDA is publishing a revised proposal to amend the U.S. standard of fill of container for canned mushrooms at this time. The agency will rule on other provisions of the December 9, 1977, proposal at a later date.

In proposing to align, to the extent practicable, the U.S. standards for canned mushrooms with the Codex standard, FDA has noted certain differences of composition and format of the Codex standard from the U.S. standards. The Codex standard includes hygiene requirements, certain basic labeling requirements, and other factors which are not considered a part of food standards under section 401 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 341, the legal basis for the promulgation of food standards). These factors are dealt with under other sections of the act; therefore, the agency will not discuss them in this proposal. Also, the Codex standard sometimes uses subjective terms in stating its requirements. FDA believes that these terms are not precise enough to be legally enforceable, and the agency has omitted them from the proposal.

FDA does believe, however, that this is an opportune time to update the U.S. standards of identity and fill of container for canned mushrooms to reflect current marketing and packing practices. This action will also promote honesty and fair dealing in the interest of consumers and facilitate international trade by adopting, insofar as practicable, the Codex standard.

Any final rule that may issue to amend the U.S. standard of identity (§ 155.201(a)) and standard of fill of container (§ 155.201(c)) for canned mushrooms will be based on consideration of the following Codex standard (CAC/RS 55–1972), the NFPA petition, the comments and supporting data received in response to this proposal, and other available information that is made a part of the record of this proceeding.

Recommended International Standard for Canned Mushrooms

1. *Description.*

1.1 *Product Definition.*

Canned mushrooms is the product (a) prepared from fresh mushrooms conforming with the characteristics of cultivated varieties (cultivars) of the genus *Agaricus (Psalliota),* including *A. bisporus,* which mushrooms shall be in good condition and after cleaning and trimming shall be sound; (b) packed with water and/or juice exuding from the mushrooms or other suitable liquid medium, seasonings, and other ingredients, appropriate to the product; and (c) processed by heat in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage.

1.2 *Varietal Type.*

Any suitable variety (cultivar) of the genus *Agaricus (Psalliota),* including *A. bisporus,* may be used.

1.3 *Colour Type.*

1.3.1 White or cream.

1.3.2 Brown.

1.4 *Styles.*

1.4.1 Buttons—Whole mushrooms, with attached stems not exceeding 5 mm in length, measured from the bottom of the veil.

1.4.2 Sliced Buttons—Buttons cut into slices 2 mm to 6 mm thick, of which not less than 50% are cut parallel to the axis of the mushroom.

1.4.3 Whole—Whole mushrooms, with attached stems cut to a length not exceeding the diameter of the cap, measured from the bottom of the veil.

1.4.4 Sliced or Sliced Whole—Mushrooms cut into slices 2 mm to 8 mm thick, of which not less than 50% are cut parallel to the axis of the mushroom.

1.4.5 Random Sliced—Mushrooms cut into slices of varying thickness and in which the slices may deviate materially from cuts approximately parallel to the axis of the mushroom.

1.4.6 Quarters—Mushrooms cut into four approximately even parts.

1.4.7 Stems and Pieces (Cut)—Pieces of caps and stems of irregular sizes and shapes.

1.4.8 Grilling—Selected open-veiled mushroms not exceeding 40 mm in diameter, with attached stems not exceeding the diameter of the cap, measured from the bottom of the veil scar.

1.4.9 Other Optional Styles—Other forms not specifically described in 1.4.1 through 1.4.8 above such as diced or chopped which are appropriately described on the label.

1.5 *Tolerance for the Styles "Buttons" and "Whole".*

10%, by count, of the units for the respective style may exceed the specified stem length.

1.6 *Types of Pack.*

1.6.1 Regular or natural pack—in water, brine, and/or juice exuding from the mushrooms.

1.6.2 In butter or butter sauce.

1.6.3 In cream sauce.

1.6.4 In sauce other than a butter or cream sauce.

1.6.5 In vinegar.

1.6.6 In oil.

1.6.7 In wine.

2. *Essential Composition and Quality Factors.*

2.1 *Other Ingredients.*

As appropriate for the respective type of pack:

2.1.1 Water, salt, spices, seasonings, soybean sauce, vinegar, wine.

2.1.2 Sucrose, invert sugar syrup, dextrose, glucose syrup, dried glucose syrup.

2.1.3 Butter or other edible animal or vegetable fats or oils, including olive oil; milk, milk powder, or cream.

If butter is added, it must amount to not less than 3% m/m of the final product.

2.1.4 Starches—natural (native), physically or exzymatically modified—only when butter or other edible animal or vegetable fats or oils are ingredients.

2.1.5 Wheat or corn flour.

2.2 *Quality Criteria.*

2.2.1 Colour.

2.2.1.1 The mushroom portion of the product shall have normal colour characteristics of the variety of the canned mushrooms. Canned mushrooms of special types and containing special permitted ingredients shall be considered of characteristic colour when there is no abnormal discolouration for the respective ingredients used.

2.2.1.2 The liquid medium in "Regular or Natural Pack" shall be either clear or slightly turbid and yellow to light brown in colour.

2.2.2 Flavour.

The mushrooms shall have a normal flavour and odour free from flavours or odours foreign to the product.

Canned mushrooms with special ingredients or sauces shall have the flavour characteristic of that imparted by the mushrooms and the other substances used.

2.2.3 Texture and Character.

The mushrooms in the "Regular or Natural Pack" shall be firm and substantially intact.

In the styles of "Buttons" and "Whole" mushrooms, not more than 10% by count of the mushrooms may have caps which show total or complete breakage of the veil.

In the styles of "Buttons" and "Whole" and "Grilling" mushrooms 5% by count of the mushroom units may be detached caps or stems.

2.2.4 Defects.

The canned mushrooms (a) may contain no more than a trace of soil, sand, grit, or any other extraneous matter, whether of mineral or organic origin; and (b) shall be reasonably free from spotted or otherwise damaged mushrooms.

2.2.5 Classification of "defectives".

A container that fails to meet one or more of the applicable quality requirements, as set out in sub-sections 2.2.1 through 2.2.4 shall be considered a "defective".

2.2.6 Acceptance.

A lot will be considered as meeting the applicable quality requirements referred to in sub-section 2.2.5, when the number of "defectives, as defined in sub-section 2.2.5, does not exceed the acceptance number (c) of the appropriate sampling plan in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL-6.5) (Ref. CAC/RM 42–1969).

3. *Food Additives.*

BILLING CODE 4160-01-M

		Maximum level of use
3.1	Ascorbic acid	Not limited
3.2	Citric acid	Not limited
3.3	Monosodium glutamate	Not limited 1/4/
3.4	Caramel colours for use in sauces	Not limited 1/2/
3.5	Calcium disodium ethylenediaminetetra-acetate ($CaNa_2$ EDTA)	200 mg/kg
3.6	Vegetable gums	3/ 1% m/m of the additives specified under 3.6 to 3.9 inclusive, singly or in combination.
3.6.1	Arabic gum 1/	
3.6.2	Carrageenan 1/	
3.6.3	Furcellaran 1/	
3.6.4	Guar gum 1/	
3.7	Pectin	
3.8	Alginates (Ca, K, Na, NH_4) 1/	
3.8.1	Propylene glycol alginate 1/	
3.9	Modified starches	
3.9.1	Acid-treated starches	
3.9.2	Alkali-treated starches	
3.9.3	Bleached starches	

1/ Temporarily endorsed.
2/ Caramel colour made by the ammonia process is temporarily endorsed and other caramel colours are endorsed.
3/ May be used only when butter or other edible animal or vegetable fats or oils are ingredients.
4/ Subject to review.

		Maximum level of use	
3.9.4	Distarch phosphate (sodium trimetaphosphate treated)	1/	2/ 1% m/m of the additives specified under 3.6 to 3.9 inclusive, singly or in combination.
3.9.5	Distarch phosphate, phosphated		
3.9.6	Monostarch phosphate		
3.9.7	Starch acetate		
3.9.8	Starch, hydroxypropyl		
3.9.9	Distarch, adipate, acetylated		
3.9.10	Distarch glycerol, hydroxypropyl		
3.9.11	Oxidized starches		
3.9.12	Distarch phosphate (phosphorous oxychloride treated)		
3.9.13	Distarch phosphate, acetylated		
3.9.14	Distarch glycerol, acetylated		
3.9.15	Distarch glycerol		

1/ Temporarily endorsed
2/ May be used only when butter or other edible animal or vegetable fats or oils are ingredients.

BILLING CODE 4160-01-C

4. *Hygiene.*

4.1 It is recommended that the product covered by the provisions of this standard be prepared in accordance with the International Code of Hygienic Practice for Canned Fruit and Vegetable Products recommended by the Codex Alimentarius Commission (Ref. CAC/RCP 2–1969).

4.2 To the extent possible in good manufacturing practice the product shall be free from objectionable matter.

4.3 When tested by appropriate methods of sampling and examination, the product

(a) Shall be free from microorganisms capable of development under normal conditions of storage, and

(b) Shall not contain any substance originating from microorganisms in amounts which may be toxic.

4.4 The product shall have received a processing treatment sufficient to destroy all spores of *Clostridium botulinum.*

5. *Weights and Measures.*

5.1 *Fill of Container.*

5.1.1 Minimum Fill.

The container shall be well filled with mushrooms and the product (including packing medium) shall occupy not less than 90% of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20°C which the sealed container will hold when completely filled.

5.1.2 Classification of "Defectives".

A container that fails to meet the requirement for minimum fill (90 percent container capacity) of sub-section 5.1.1 shall be considered a "defective".

5.1.3 Acceptance.

A lot will be considered as meeting the requirement of sub-section 5.1.1 when the number of "defectives", as defined in sub-section 5.1.2, does not exceed the acceptance number (c) of the appropriate sampling plan in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL–6.5) (Ref. CAC/RM 42–1969).

5.1.4 Minimum Drained Weight.

5.1.4.1 Regular packs, vinegar, wine, oil packs.

The drained weight of the product shall be not less than 53% of the weight of distilled water at 20°C which the sealed container will hold when completely filled.

5.1.4.2 Sauce packs.

The drained mushroom portion, after washing off the sauce or liquid, shall be not less than 27.5% of the total product weight.

5.1.4.3 The requirements for minimum drained weight shall be deemed to be complied with when the average drained weight of all containers examined is not less than the minimum required, provided that there is no unreasonable shortage in individual containers.

6. *Labelling.*

In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. CAC/RS 1–1969), the following specific provisions apply:

6.1 *The Name of the Food.*

6.1.1 The name of the product shall be "Mushrooms".

6.1.2 The following shall be included as part of the name or in close proximity to the name:

6.1.2.1 The style—

"Buttons", "Sliced Buttons", "Whole", "Sliced" or "Sliced Whole", "Random Sliced", "Quarters", "Stems and Pieces (Cut)", "Grilling", "Diced" and "Chopped", as appropriate.

6.1.2.2 A declaration of any special sauce and/or seasoning or flavouring which characterizes the product, e.g. "With X" or "In X" when appropriate. If the decalaration is "With (of "In") Butter Sauce", the fat used shall only be butter fat.

6.2 *List of Ingredients.*

A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with sub-section 3.2(c) of the General Standard for the Labelling of Prepackaged Foods, except that water need not be declared.

6.3 *Net contents.*

The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold, except that mushrooms packed in regular or natural packs as described in sub-section 1.6.1 shall carry a declaration of drained weight of the food.

6.4 *Name and address.*

The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

6.5 *Country of origin.*

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

7. *Methods of Analysis and Sampling.*

The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Method of Sampling.*

Sampling shall be in accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL–6.5), (CAC/RM 42–1969).

7.2 *Determination of Drained Weight.*

According to the FAO/WHO Codex Alimentarivs method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, CAC/RM 36–1970. *Determination of Drained Weight—Method I).* Results are expressed as % m/m calculated on the basis of the mass of distilled water at 20°C which the sealed container will hold when completely filled.

7.3 *Determination of Washed Drained Weight.*

According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, Second Series—*Determination of Washed Drained Weight,* CAC/RM 44–1972). This method applies to sauce packs only. Results are expressed as % m/m of the total product weight.

7.4 *Determination of Water Capacity of Containers.*

According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex Alimentarius methods of Analysis for Processed Fruits and Vegetables, Second Series—*Determination of Water Capacity of Containers,* (CAC/RM 46–1972).

Results are expressed as volume of distilled water that the container holds.

In many respects the provisions of the Codex standard, the USDA voluntary grade standards, and the U.S. standards are identical. The following is a discussion of what the agency believes to be the principal differences between these standards. FDA requests comments with available supporting data on these differences. Following each item of comparison is the action FDA proposes to take.

Comparison of Identity Aspects and Proposed Courses of Actions

1. *Definition.* The Codex standard (1.1(a) and 1.2) states that canned mushrooms are prepared from fresh mushrooms conforming with the characteristics of cultivated varieties (cultivars) of the genus *Agaricus (Psalliota),* including *A. bisporus,* which mushrooms shall be in good condition and after cleaning and trimming shall be sound. The U.S. standard (§ 155.200(a)) states that the vegetable ingredient is obtained by proper preparation of the succulent vegetable. Section 155.200(b) states that the source of canned mushrooms shall be the cap and stem of the mushroom (genus not specified).

FDA proposes in § 155.201(a)(1) to define canned mushrooms as the food properly prepared from the succulent caps and stems of mushrooms. The genus *Agaricus,* also commonly known in some countries as *Psalliota,* includes a number of species of mushrooms, some of which may be toxic. Information available to FDA indicates that mushrooms cultivated commercially and widely available to consumers are of the species *Agaricus bisporus* and *Agaricus bitorquis.* Some species of wild mushrooms are also harvested and sold to consumers. FDA recognizes these as nonstandardized foods which are specialty items sold for their unique flavor or other attributes. FDA, therefore, further proposes in § 155.201(a)(1) to limit the species of canned mushrooms to *Agaricus (Psalliota) bisporus* and *A. bitorquis.*

2. *Processing.* The Codex standard (1.1(c)) states that the canned mushrooms are processed by heat in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage. The U.S. standard (§ 155.200(a)) states the food is sealed in a container and so processed by heat as to prevent spoilage.

FDA is not aware of any mushroom canner who is currently using aseptic canning methods in which the mushrooms are heat sterilized before being sealed in a container. Nevertheless, FDA believes that canners should be permitted to use aseptic techniques in the canning of mushrooms, consistent with the U.S. standards of identity for canned beans, corn, and peas. Therefore, FDA proposes, in § 155.201(a)(1), language similar to that of the Codex standard.

3. *Color types.* The Codex standard (1.3) provides for two color types: (1) White or cream, and (2) brown. The U.S. standard contains no reference to color types, but the USDA voluntary grade standards provide separate criteria for grading the two types.

FDA recognizes that cultivated mushrooms may be of the color types referred to in the Codex standard and the USDA voluntary grade standards. FDA, however, is not proposing to provide for color type in the U.S. standard. The U.S. standard does not prohibit label declaration of the actual color type.

4. *Optional sty;es*—(a) *Buttons.* The Codex standard (1.4.1), the USDA voluntary grade standards, and the U.S. standard (§ 155.200(b)) provide for "buttons" as an optional style. The Codex standard defines "buttons" as whole mushrooms, with attached stems not exceeding 5 millimeters (0.2 inch) in length, measured from the bottom of the veil. The Codex standard (1.5) states that 10 percent, by count, of the stems may exceed the length requirement. The USDA voluntary grade standards define the style as consisting of the caps with attached stems which are cut transversely below the veil so that in 85 percent or more, by count, of the units the attached stem when measured from the underside of the cap to the cut end of the stem does not exceed ⅛ inch (3.2 millimeters) in lenght; and in the remaining units none of the attached stems may be more than ¼ inch (6.4 millimeter) in length.

FDA proposes in § 155.201(a)(2)(i) to retain "buttons" as an optional style, defined in consideration of the Codex standard as consisting of whole mushrooms with attached stems not exceeding 5 millimeters (0.2 inch) in length, measured from the bottom of the veil. FDA is not including in the proposed definition the Codex provision that 10 percent by count of the stems may exceed the length requirement. However, FDA will not object to the variation of "buttons" style within this limitation.

(b) *Sliced buttons.* The Codex standard (1.4.2) and the USDA voluntary grade standards provides for "sliced buttons" as an optional style. The USDA voluntary grade standards provide for this style; however, the U.S. standard does not. The Codex defines sliced buttons as buttons cut into slices 2 millimeters to 6 millimeters (0.079 inch to 0.24 inch) thick, of which not less than 50 percent are cut parallel to the axis of the mushroom. The USDA voluntary grade standards define the style as consisting of units which have been sliced from button mushrooms so that in 90 percent or more, by weight, of all the units the direction of the slice is approximately parallel to the longitudinal axis of the stem.

FDA has no information that U.S. consumers would recognize the style "sliced buttons" as distinctively different from the style "slice or sliced" currently provided for in the U.S. standard. The agency therefore does not propose to provide for "sliced buttons" as a optional style in the U.S. standard.

(c) *Whole.* The Codex standard (1.4.3), the USDA voluntary grade standards, and the U.S. standard (§ 155.200(b)) provide for "whole" as an optional style. The Codex defines whole mushrooms as mushrooms with attached stems cut to a length not exceeding the diameter of the cap, measured from the bottom of the veil. The Codex standard (1.5) states that 10 percent, by count, of the stems may exceed the length requirement. The USDA voluntary grade standards define "whole" style as consisting of the caps with attached stems which are more than ⅛ inch (3.2 millimeters) in length when measured from the underside of the cap to the cut end of the stem.

FDA proposes in § 155.201(a)(2)(ii) to retain "whole" as an optional style, defined as consisting of whole mushrooms with attached stems cut to a length not exceeding the diameter of the cap, measured from the bottom of the veil. FDA is not including in the proposed definition the Codex provision that 10 percent by count of the stems may exceed the length requirement. However, FDA will not object to the variation of "whole" style within this limitation.

(d) *Quarters.* The Codex standard (1.4.6) provides for "quarters" as an optional style, defined as mushrooms cut into four approximately even parts. Neither the USDA voluntary grade standards nor the U.S. standard provide for this style.

FDA proposes in § 155.201(a)(2)(iii) to provide for "quarters" as an optional style, defined as buttons or whole style cut into four approximately equal parts.

(e) *Slice or sliced.* The Codex standard (1.4.4) provides for "sliced" or "sliced whole" as an optional style. The USDA voluntary grade standards provide for "sliced whole". The U.S. standard (§ 155.200(b)) provides for "slices" or "sliced". The Codex defines "sliced" mushrooms as mushrooms cut into slices 2 millimeters to 8 millimeters (0.08 inch to 0.32 inch) thick, of which not less than 50 percent are cut parallel to the axis of the mushroom. The USDA voluntary grade standards define "sliced whole" as consisting of units which have been sliced from whole mushrooms so that in 80 percent or more, by weight, of all the units the direction of the slice is approximately parallel to the longitudinal axis of the stem. The definition further provides that not more than 5 percent, by weight, of all the units may be detached portions of the stems.

FDA proposes in § 155.201(a)(2)(iv) to retain "slice" or "sliced" as an optional style, defined as consisting of buttons or whole style mushrooms of which not less than 50 percent are cut parallel to the lingtitudinal axis of the stem and 2 millimeters to 8 millimeters (0.08 inch to 0.32 inch) in thickness.

(f) *Random sliced.* The Codex standard (1.4.5) provides for "random sliced" as an optional style. The USDA voluntary grade standards provide for "random sliced whole" as an optional style. The U.S. standard does not provide for this style. The Codex defines random sliced mushrooms as mushrooms cut into slices of varying thickness and in which the slices may deviate materially from cuts approximately parallel to the axis of the mushroom. The USDA voluntary grade standards define "random sliced whole" as pieces of mushroom which have been sliced from whole mushrooms in a random manner so that the direction of the slice may materially deviate from approximately parallel to the longitudinal axis of the stem. The definition further provides that not more than 15 percent, by weight, of all the units may be detached portions of stem.

FDA proposes in § 155.201(a)(2)(v) to provide for "random sliced" as an optional style, defined as buttons or whole style mushrooms sliced in a random manner.

(g) *Pieces and stems.* The Codex standard (1.4.7) provides for "stems and pieces (cut)" as an optional style. The USDA voluntary grade standards provide for "stems and pieces" or "pieces and stems" as an optional style. The U.S. standard (§ 155.200(b)) provides for "pieces and stems" as an optional style. The Codex defines pieces and stems as pieces of caps and stems of irregular sizes and shapes. The USDA voluntary grade standards define the style as consisting of units which do not

conform to any of the styles otherwise provided for, that are predominantly cut or broken portions of the caps and stems, and that may contain units of any of the other styles.

FDA proposes in § 155.201(a)(2)(vi) to retain "pieces and stems" as an optional style, defined as consisting of pieces of caps and stems of irregular shape and size. FDA does not believe that inclusion of the term "cut" would be of benefit to the U.S. consumer in identifying the style.

(h) *Grilling.* The Codex standard (1.4.8) provides for "grilling" as an optional style, defined as selected open-veiled mushrooms not exceeding 40 millimeters (1.57 inches) in diameter, with attached stems not exceeding the diameter of the cap, measured from the bottom of the veil scar. Neither the USDA voluntary grade standards nor the U.S. standard provides for this style.

The term "grilling" has little meaning as a style of canned mushrooms to the U.S. consumer. Therefore, FDA does not propose to provide for "grilling" as an optional style of canned mushrooms.

(i) *Other optional styles.* The Codex standard (1.4.9) provides for other optional styles not specifically described, such as diced or chopped, when such styles are appropriately described on the label.

FDA does not propose to provide for other optional styles in the U.S. standard of identity.

5. *Packing medium*—(a) *Regular or natural packs.* The Codex standard (1.6.1) defines regular or natural packs as mushrooms packed in water, brine, or juice exuding from the mushrooms. The Codex standard (1.1(b)) further states that mushrooms are to be packed with water or juice exuding from the mushrooms or other suitable liquid medium seasonings, and other ingredients. The U.S. standard (§ 155.200(c)) requires that water be added.

FDA proposes in § 155.201(a)(1) that canned mushrooms must be packed with a suitable liquid medium, which may include water.

(b) *Sauces.* The Codex standard (1.6.2 through 1.6.4) provides for packing canned mushrooms in butter or butter sauce, cream sauce, or sauce other than butter or cream sauce. The Codex standard (2.1.1 through 2.1.5, 3.4, 3.6, and 3.9) provides for use in sauces of spices, seasonings, soybean sauce, vinegar wine, sucrose, invert sugar syrup, dextrose, glucose syrup, dried glucose syrup, butter or other edible animal or vegetable fats or oils, including olive oil, milk, milk powder, or cream, vegetable gums, and modified starches. The U.S. standard (§ 155.200(c)(3)) excludes butter and margarine from standardized canned mushrooms.

FDA has consistently advised canners of specialty mushroom products made with butter, margarine, or sauces that such articles are nonstandardized foods that are not considered to violate the FDA standard if they differ sufficiently in appearance, taste, or other characteristics and are labeled to distinguish them from the standardized product. FDA is not proposing to provide in the U.S. standard for the packing of canned mushrooms in sauces, butter, or margarine.

(c) *Vinegar, oil, and wine.* The Codex standard (1.6.5, 1.6.6, and 1.6.7) provides for packing canned mushrooms in vinegar, oil, and wine. The U.S. standard (§ 155.200(c)(3)) does not permit vinegar as an optional seasoning ingredient. FDA recognizes that vinegar is commonly used in pickled and spiced mushrooms, but believes that these products, because of their distinctive flavor, do not purport to be the standardized food (see 42 FR 30358; June 14, 1977). Under § 155.200(c)(1) use of edible vegetable oil is specifically restricted to canned artichokes and pimientos. Section 155.200(c) makes not provision for use of wine.

FDA does not propose to provide for canned mushrooms in vinegar, oil, or wine. Mushroom products which do not purport to be the standardized food and which use any of these packing media may be distributed as nonstandardized foods under appropriate labeling.

6. *Salt and flavor enhancers.* The Codex standard (2.1.1 and 3.3) provides for salt and monosodium glutamate. The U.S. standard (§ 155.200(c)(4)) provides for the optional use of salt, monosodium glutamate, disodium inosinate, disodium guanylate, hydrolyzed vegetable protein, and autolyzed yeast extract.

FDA proposes in § 155.201(a)(3) to retain the provisions for the use of salt, monosodium glutamate, disodium inosinate, disodium guanylate, hydrolyzed vegetable protein, and autolyzed yeast extract.

7. *Ascorbic acid.* The Codex standard (3.1) provides for the unlimited addition of ascorbic acid (vitamin C). The U.S. standard (§ 155.200(c)(7)) provides for the use of ascorbic acid in a quantity not to exceed 37.5 milligrams for each ounce of drained weight of mushrooms.

FDA believes that the current limit of 37.5 milligrams of ascorbic acid per ounce of drained weight is adequate to reduce the darkening due to oxidation without making the product appear to be of greater value than it actually is. Therefore, FDA proposes in § 155.201(a)(3)(vii) to allow ascorbic acid to be added in a quantity not to exceed 132 milligrams for each 100 grams (37.5 milligrams for each ounce) of drained weight of mushrooms.

8. *Organic acids.* The Codex standard (3.2) provides for unlimited use of citric acid. The U.S. standard (§ 155.200(c)(12)) provides for the optional use of safe and suitable organic acid (except that no vinegar is permitted) only where the inside of a metal container is fully enamel-lined or the cap used in a glass container is fully enamel-lined. The use of ascorbic acid is discussed above.

FDA proposes in § 155.201(a)(3)(viii) to retain the provision for the use of organic acids.

9. *Calcium disodium EDTA.* The Codex standard (3.5) provides for the use of calcium disodium ethylenediaminetetraacetate (calcium disodium EDTA) at a maximum level of 200 milligrams per kilogram of the finished food. The U.S. standard does not provide for the use of calcium disodium EDTA, but § 172.120(b)(1) (21 CFR 172.120(b)(1)) provides that calcium disodium EDTA may be used alone within a limit of 200 parts per million in cooked, canned mushrooms to promote color retention when such use is prescribed by an effective temporary permit issued under § 130.17 (21 CFR 130.17). No such temporary permit is now in effect.

However, on its own initiative, FDA has decided to propose to amend the U.S. standard of identity for canned mushrooms (§ 155.201(a)) to provide for the safe use of calcium disodium EDTA as a color stabilizer in cooked, canned mushrooms at a level of 200 parts per million. FDA believes that the safety of this use of calcium disodium EDTA is established by data submitted in 1966 (see 32 FR 6686; May 2, 1967) as part of a petition to amend 21 CFR 172.120(b) (at that time 21 CFR 121.1017) to provide for this issue. (FDA has filed a copy of that data in the administrative record for this proceeding.) Although the agency adopted the petition in 1967, because the standard of identity for canned mushrooms did not provide for the use of calcium disodium EDTA, FDA included the requirement of a temporary permit in the food additive regulation approving the use of this substance. FDA has not acted previously to amend the standard of identity to provide for the use of calcium disodium EDTA in canned mushrooms because the agency has never been requested to do so.

FDA finds, however, that the Codex's decision to include the use of calcium disodium EDTA in its standard provides an appropriate basis for the agency to act to amend § 155.201(a). Therefore, FDA proposes in § 155.201(a)(3)(ix) to

adopt the Codex provision to allow for calcium disodium EDTA to be added in a quantity not to exceed 200 parts per million as a color stabilizer in cooked, canned mushrooms. Therefore, the agency is proposing to conform § 172.120(b)(1) with the proposed amendment to the food standard regulations to eliminate the requirement of the temporary permit.

10. *Labeling*—(a) *Style of mushrooms.* The Codex standard (6.1.2) states that the style of the mushroom ingredient is to be included as part of the name or in close proximity to the name of the food. The U.S. standard (§ 155.200(e)) states that the label is to bear the style of the mushroom ingredient.

FDA believes that the style of the mushroom ingredient, included as a part of the name of the food or in close proximity to the name of the food, provides for more uniform labeling of canned mushrooms than the current U.S. requirement that the style merely appear on the label. Therefore, FDA proposes in § 155.201(a)(4)(i) the adoption of the Codex provision.

(b) *Ingredient statement.* The Codex standard (6.2) states that all ingredients are to declared on be the label in descending order of proportion, except that water need not be declared. The U.S. standard (§ 155.200(h)) states that each of the optional ingredients used is to be declared on the label as required by the applicable sections of Part 101 (21 CFR Part 101).

FDA proposes in § 155.201(a)(4)(ii) to retain the current labeling requirement. Because FDA is proposing to provide for the use of water or another suitable liquid packing medium, water would be an optional ingredient to be declared in accordance with the requirements of Part 101.

Comparison of Fill of Container Aspects and Proposed Courses of Actions

1. *Minumum fill of container.* The Codex standard (5.1.1) states that the container is to be well filled with mushrooms and that the product (including packing medium) is to occupy not less than 90 percent of the water capacity of the container. The U.S. standard does not contain a minimum fill requirement.

FDA proposes in § 155.201(c)(1)(i) to require that the fill of the mushroom ingredient and packing medium be not less than 90 percent of the total capacity of the container. This requirement is consistent with the fill requirements applicable to canned fruits and to other canned vegetables.

2. *Drained weight.* The Codex standard (5.1.4.1) states that the drained weight of the mushroom ingredient is to be not less than 53 percent of the weight of distilled water at 20° C which the sealed container will hold when completely filled. The NFPA petition and the U.S. standard (§ 155.201(c)(1)) have the following drained weights of not less than:

Container designation	Overall dimensions sealed can (inches)		Drained weight (ounces)	
	Diameter	Height	NFPA	§ 155.201(c)(1)
202 x 204	2 1/16	2 1/16	2	2
211 x 212	2 13/16	2 7/16	4	4
300 x 400	3	4	7.6	8
307 x 510	3 7/16	5 1/16	14.5	16
603 x 700	6 7/16	7	61	68

NFPA proposes, for containers the diamensions of which are not specified, that the drained weight is to be not less than 56 percent of the water capacity of the container. The U.S. standard (§ 155.201(c)(2)) specifies for such containers a drained weight of not less than 56 percent of the water capacity of the container, if the water capacity is less than 11.0 ounces; not less than 59 percent of the water capacity of the container, if the water capacity is 11.0 ounces or more but less than 25 ounces; and not less than 62 percent of the water capacity, if the water capacity is 25 ounces or more.

NFPA has recommended in their bulletin 26L, "Processes for Low-Acid Canned Foods in Metal Containers," (1966), a maximum drained weight of 70 ounces for a 603 x 700 container to assure proper heat treatment of the mushrooms. (Bulletin 26L was revised in 1976 to list recommended maximum fill weights.) NFPA states, however, that processors can not assure a minimum of 68 ounces, as required by the U.S. standard, without many containers exceeding the NFPA maximum. Overfilling is particularly a problem with mechanical fillers, which cause the mushrooms to pack down, further impeding heat penetration of the mushrooms. NFPA states that there has been little or no underprocessing spoilage with containers where the drained weight of the mushrooms is 56 percent of the water capacity of the container.

FDA recognizes that overfilling could contribute to the bacterial spoilage of canned mushrooms. It also recognizes that under certain operating conditions, particularly when a vibrating motion is applied during the filling operation, the mushrooms can compact in the cans resulting in further reduction of heat penetration of the mushrooms. Therefore, FDA proposes in § 155.201(c)(1)(ii)(*a*) to revise the drained weight requirements for the specified containers so that the ratio of mushrooms to water capacity of the container is not less than 56 percent as follows:

Container designation	Overall dimensions sealed can (inches)		Drained weight	
	Diameter	Height	Ounces (avoirdupois)	Grams
202 x 204	2 1/16	2 1/16	2	56.7
211 x 212	2 13/16	2 7/16	4	113.4
300 x 400	3	4	7.6	215.5
307 x 510	3 7/16	5 1/16	14.5	411.1
603 x 700	6 7/16	7	61	1,729.3

FDA also proposes in § 155.201(c)(1)(ii)(*b*) that the drained weight of mushrooms in containers of a size not specified is to be not less than 56 percent of the water capacity of the container.

4. *Labeling of substandard fill of container.* The Codex standard does not provide for substandard labeling of canned mushrooms that would fail to meet the fill of container requirement. The U.S. standard in § 155.201(c)(5) requires that canned mushrooms which fall below the applicable fill of container (minimum drained weight) requirements bear the general statement of substandard fill specified in § 130.14(b) (21 CFR 130.14(b)).

FDA proposes in § 155.201(c)(3) to require that canned mushrooms which fail to comply with proposed § 155.201(c)(1)(i) and/or (ii) and (2) are to bear the appropriate statement of substandard fill as specified in § 130.14(b).

5. *Sampling and acceptance.* The Codex standard (5.1.2, 5.1.3, and 7.1) provides for the determination of compliance with the minimum fill and drained weight requirements. The U.S. standard has no such requirements.

FDA proposes in § 155.201(c)(2) to determine compliance in accordance with the procedure in § 155.3(b) (21 CFR 155.3(b)). This is the Codex procedure that has been adopted for use in many U.S. standards.

6. *Analyses.* The Codex standard (7.2 and 7.4) specifies methods of analysis for drained weight and water capacity of containers. The U.S. standard (§ 155.201(c)(3)) references the general method in § 130.12 (21 CFR 130.12) for the determination of water capacity and § 155.201(c)(4) contains the procedure for the determination of drained weight.

The Codex methods have already been adopted by the United States.

Therefore, FDA proposes in § 155.201(c)(1) to reference § 130.12(b) for the determination of water capacity. It also proposes in § 155.201(c)(1)(ii)(*c*) to reference the procedure in § 155.3(a) for the determination of drained weight.

Written comments by August 23, 1982. The agency periodically announces by notice in the **Federal Register** uniform effective dates for compliance with food labeling requirements. (See, for example, the **Federal Register** of October 31, 1980 (45 FR 72111).) The agency proposes that any final rule that may issue based upon this proposal become effective in accordance with a uniform effective date for compliance with food labeling requirements which is announced by notice in the **Federal Register** and which is not sooner than 1 year following publication of any final rule based upon this proposal, except for any provisions that may be stayed by the filing of proper objections. The final rule would apply to affected products initially introduced or initially delivered for introduction into interstate commerce.

In accordance with the Regulatory Flexibility Act (Pub. L. 96–354 (5 U.S.C. 601)), FDA has reviewed this proposed rule to determine its impact on small businesses. The proposed regulation in § 155.201(a) and (c) updates the U.S. standards for canned mushrooms by providing for quarter and random slices as an additional optional style of pack, lowering the drained weight requirement for certain can sizes to reduce the incidence of bacterial spoilage, and recodifying the format. The agency believes that the proposed regulation provides increased flexibility to all manufacturers related to the canned mushroom industry and will not impose an additional burden on the industry. Therefore, FDA certifies that this proposed action will not have a significant economic impact on a substantial number of small entities.

The agency has determined under 21 CFR 25.24(b)(13) (proposed December 11, 1979; 44 FR 71742) that this proposed action to amend the food standards (Part 155) 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.

The potential environmental impact of this proposed action to amend the food additive regulation (Part 172) is being reviewed. If the agency finds that an environmental impact statement is not required and this proposal results in a conforming regulation, the notice of availablity of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

List of Subjects

21 CFR Part 155

Canned vegetables, Food standards, Vegetables.

21 CFR Part 172

Food additives, Food preservatives, Spices and flavorings.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 409, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 341, 348, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 155 and 172 be amended as follows:

PART 155—CANNED VEGETABLES

1. In Part 155:

a. Section 155.200 is amended by removing the entry "Mushrooms" from the table in paragraph (b), by removing the words "except canned mushrooms and" from paragraph (c)(3), by removing the words "except canned mushrooms" from paragraph (c)(5), by removing paragraph (c)(7) and redesignating the subsequent paragraphs as (c)(7), (8), (9), (10), and (11), and by revising redesignated (c)(11), to read as follows:

§ 155.200 Certain other canned vegetables.

* * * * *

(c) * * *

(11) A vinegar or any safe and suitable organic acid for all vegetables (except artichokes, in which the quantity of such optional ingredient is prescribed by the introductory text of paragraph (c) of this section) in a quantity which, together with the amount of any lemon juice or concentrated lemon juice that may be added, is not more than sufficient to permit effective processing by heat without discoloration or other impairment of the article.

b. By revising § 155.201, to read as follows:

§ 155.201 Canned mushrooms.

(a) *Identity*—(1) *Definition.* Canned mushrooms is the food properly prepared from the caps and stems of succulent mushrooms conforming to the characteristics of the species *Agaricus (Psalliota) bisporus* or *A. bitorquis*, in one of the optional styles specified in paragraph (a)(2) of this section, packed with a suitable liquid medium which may include water; and may contain one or more safe and suitable optional ingredients specified in paragraph (a)(3) of this section. The food is sealed in a container and, before or after sealing, is so processed by heat as to prevent spoilage.

(2) *Styles.* The optional styles of the mushroom ingredient referred to in paragraph (a)(1) of this section are:

(i) *Buttons*—consisting of whole mushrooms with attached stems not exceeding 5 millimeters (0.2 inch) in length, measured from the bottom of the veil.

(ii) *Whole*—consisting of whole mushrooms with attached stems cut to a length not exceeding the diameter of the cap, measured from the bottom of the veil.

(iii) *Quarters*—consisting of buttons or whole style cut into four approximately equal parts.

(iv) *Slice or sliced*—consisting of buttons or whole style of which not less than 50 percent are cut parallel to the longitudinal axis of the stem and 2 millimeters to 8 millimeters (0.08 inch to 0.32 inch) in thickness.

(v) *Random sliced*—consisting of buttons or whole style sliced in a random manner.

(vi) *Pieces and stems*—consisting of pieces of caps and stems of irregular shapes and sizes.

(3) *Optional ingredients.* One or any combination of two or more of the following safe and suitable optional ingredients as provided for in paragraph (a)(1) of this section may be used:

(i) Salt.

(ii) Monosodium glutamate.

(iii) Disodium inosinate complying with the provisions of § 172.535 of this chapter.

(iv) Disodium guanylate complying with the provisions of § 172.530 of this chapter.

(v) Hydrolyzed vegetable protein.

(vi) Autolyzed yeast extract.

(vii) Ascorbic acid (vitamin C) in a quantity not to exceed 132 milligrams for each 100 grams (37.5 milligrams for each ounce) of drained weight of mushrooms.

(viii) Organic acids (except no vinegar is permitted), only where the inside metal of the container is fully enamel-lined and in glass containers with fully enamel-lined caps. Ascorbic acid as provided for in paragraph (a)(3)(vii) of this section.

(ix) Calcium disodium ethylenediaminetetraacetate ($CaNa_2$ EDTA) in a quantity not to exceed 200 parts per million for use to promote color retention.

(4) *Labeling requirements.* (i) The name of the food is mushrooms. The style as provided for in paragraph (a)(2) of this section shall be included as part

of the name or in close proximity to the name of the food.

(ii) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) [Reserved]

(c) *Fill of container.* (1) The standard of fill of container for canned mushrooms is:

(i) The fill of the mushroom ingredient and packing medium, as determined by the general method for fill of container prescribed in § 130.12(b) of this chapter, is not less than 90 percent of the total capacity of the container.

(ii) The drained weight of the mushroom ingredient is not less than 56 percent of the water as capacity of the container.

(iii) Determine drained weight as specified in § 155.3(a).

(2) Determine compliance for minimum fill and drained weight as specified in § 155.3(b).

(3) If the canned mushrooms fall below the standard of fill prescribed in paragraph (c)(1)(i) and/or (ii) and (2) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein prescribed.

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

2. In Part 172, § 172.120 is amended in the table in paragraph (b)(1) by revising the entry for "Mushrooms (cooked canned)" to read as follows:

§ 172.120 Calcium disodium EDTA.

* * * * *

(b) * * *

(1) * * *

Food	Limitation (parts per million)	Use
* * * * *		
Mushrooms (cooked canned).	200	Promote color retention.
* * * * *		

* * * * *

Interested persons may, on or before August 23, 1982, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 17, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-16858 Filed 6-18-82; 10:34 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 207, 220, 221, and 236

[Docket No. R-82-986]

Multifamily Housing, Urban Renewal, and Low Cost and Moderate Income Mortgage Insurance

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would provide an alternative method of determining maximum permissible rentals for unsubsidized insured and HUD-held multifamily projects, using the current appraised market value of the property, and would provide for an increase in mortgage insurance premiums for projects using this alternative method. In addition, it would end control of rents by HUD for mortgages insured under Section 220 or Section 221(d)(4) of the National Housing Act.

DATES: Comments due: August 23, 1982.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each comment should include the commentor's name and address and must refer to the docket number indicated in the heading of this document. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 426-8730. This is not a toll free number.

SUPPLEMENTARY INFORMATION: HUD has determined that the existing methods of determining maximum permissible rentals in unsubsidized insured and HUD-held projects do not provide timely recovery of current operating costs and a sufficient incentive for owners to preserve such projects as a part of the nation's multifamily rental stock. The Department has many projects in which defaults or serious delinquencies have been caused by a rigid rent structure which is not sufficiently responsive to cost increases and changes in market conditions. Therefore, the Department proposes these rules to set forth already established procedures for determining maximum permissible rent, provide an alternative mechanism which permits project owners to request that rents be determined using the current appraised market value of the property, and deregulate the determination of rents by HUD for mortgages insured or formerly insured under section 220 or 221(d)(4).

As the insurer, or holder, of the mortgages on such projects, HUD has a paramount interest in their economic viability. Moreover, HUD is committed to the preservation and enhancement of the quantity and quality of available rental housing. For projects which receive no subsidy, the best method to achieve these goals is to allow free markets to determine rents which will enable owners to recover current operating costs and achieve a reasonable rate of return based on present property values. Since HUD control over rents is not mandated by sections 220 and 221(d)(4), projects with mortgages insured under those sections will be freed from any rent regulations by HUD.

With respect to other unsubsidized insured or HUD-Held mortgages, a change in the procedure for determining rents is proposed. Currently, HUD controls rents in such projects by a strict formula based on historical costs and a rate of return which is a fixed percentage of replacement cost. The current method provides no recognition of increased value of the project, thus decreasing the real return to the owner where there is any substantial increase in market value of the project. This below-market return induces many owners to sell or convert their projects, frequently to the detriment of the tenants. The proposed alternative method would permit recovery of current costs and a realistic return on investment to the project owner based on the appreciation of property value. These changes would increase economic viability and provide the incentive necessary to preserve the existing rental housing stock, to the benefit of all participants in the rental market.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR 50, which implement section 102(2)(C) of the National Environmental Policy Act of

1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not:

(1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

The Catalog of Federal Domestic Assistance Program number is 14.134.

This rule is not listed in the Department's semiannual agenda of regulations, published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR

Part 207

Mortgage insurance, Rental housing, Mobile home parks.

Part 220

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

Part 221

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

Part 236

Low and moderate income housing, Mortgage insurance, Rent subsidies, Taxes, Utilities, Projects.

Accordingly, HUD proposes to amend 24 CFR Parts 207, 220, 221, and 236 as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

1. Part 207 would be amended by revising paragraph (e) of § 207.19 to read as follows:

§ 207.19 [Amended]

* * * * *

(e) *Rents and charges.* No charge shall be made by the mortgagor for the accommodations, facilities or services offered by the project in excess of those approved by the Commissioner. In approving such charges and in passing upon subsequent rent adjustments, consideration will be given to providing rental income necessary to maintain the economic soundness of the project and a reasonable return on investment consistent with reasonable rents to tenants. The determination will be made as follows:

(1) *Initial Rent Determination.* The Commissioner will set initial rents in the project prior to opening for occupancy. In determining the rate of return in the rent level, a debt service factor as determined by the Commissioner will be applied to the sum of Replacement Cost and working capital. Project operating costs, including an allowance for management, will be estimated using the latest available data from comparable properties. In addition in determining the rent level, the Commissioner may take into consideration local market conditions, vacancy rates and use of commercial space. The determination of maximum permissible rentals shall be processed on a form approved by the Commissioner.

(2) *Rent Adjustments.* After initial rents are determined, rental adjustments may be approved by the Commissioner in one of the following methods as selected by the mortgagor:

(i) By using as a base updated certified operating costs, taking into consideration reasonably anticipated increases in operating costs which will occur within twelve months of the date of filing of the mortgagor's application for rent adjustment and adding the return on investment computed in the initial rent determination pursuant to paragraph (e)(1) of this section, or

(ii) The lesser of:

(A) Updated operating costs determined in accordance with 24 CFR 207.19(e)(2)(i) above plus a rate of return calculated by multiplying the percentage determined at the time of Initial Rent Determination times the appraised market value of the project as of the time of application; or,

(B) Rentals on comparable conventionally financed projects in the same area, determined in accordance with procedures established by the Commissioner.

(iii) If the project is subject to a local rent control ordinance (board) as defined at 24 CFR 403, Subpart A, and the mortgagor determines that the maximum rent permissible exceeds the level prescribed by the board, and that preemption of the board is desirable, the project owner must abide by the requirements of 24 CFR Part 403, Subpart B.

(3) *Regulatory Control.* The determination of rent as provided in paragraph (e)(2) of this section shall not diminish the authority of the Commissioner stipulated in the corporate charter or regulatory agreement.

(4) *Loan Management Set-Aside Projects.* Rent adjustments for units assisted under Part 886, Subpart A, Section 8 Housing Assistance Payments Program—Special Allocation shall be determined pursuant to paragraph (e)(2)(i) of this section.

(5) *Effective Date.* Except for rents on units described in paragraph (e)(4) of this section all adjustments to maximum permissible rent shall take effect thirty (30) days after the filing of an application for such adjustment with the Area Office unless specifically disapproved in writing by the Commissioner; provided that, pending the Commissioner's approval or disapproval of the maximum permissible rent, additional rentals received by the mortgagor as a result of such adjustment shall be held in an escrow account under such terms as the Commissioner shall direct, or the mortgagor shall provide a letter of credit sufficient to cover the additional rent collected.

(6) *Increase in Mortgage Insurance Premiums.* The mortgage insurance premium (or service charge) shall increase to one percent per annum on the unpaid principal balance of the mortgage in the event the project owner requests determination of maximum permissive rents as set out pursuant to paragraph (e)(2) of this section.

2. Part 207 would be amended by revising paragraph (d) of § 207.252 to read as follows:

§207.252 [Amended]

* * * * *

(d) Until the mortgage is paid in full, or until receipt by the Commissioner of an application for insurance benefits, or until the contract of insurance is otherwise terminated with the consent of the Commissioner, the mortgagee, on each anniversary of the date of the first principal payment, shall pay an annual mortgage insurance premium equal to

one-half of one percent of the average outstanding principal obligation of the mortgage for the year following the date on which such premium becomes payable, except that whenever a mortgagor shall request that maximum permissible rents be determined pursuant to § 207.19(e)(2)(ii), or § 220.511 of this subchapter or §221.531(c) of this subchapter, the Mortgage Insurance Premium (or service charge in Secretary-held mortgages) shall increase to one percent per annum on the unpaid principal balance of the mortgage, commencing on the next anniversary date of the commencement of the first principal payment.

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS.

3. Part 220 would be amended by revising § 220.511 to read as follows:

§ 220.511 Supervision of mortgagors.

(a) All of the provisions of §207.19 of this subchapter, with exception of § 207.19(e), shall apply, except that in the case of a mortgage covering property on which there is located a dwelling or dwellings designed principally for resident's use for two to eleven families, § 207.19(d) relating to labor standards and prevailing wage requirements shall not apply.

(b) Rents and charges shall be determined by the housing owner based on comparable rents in the local market area for unassisted units in the project. Rents for any units assisted under 24 CFR 880, Section 8—New Construction or 24 CFR 881, Section 8—Substantial Rehabilitation, shall be determined pursuant to the applicable Section 8 Regulation.

(c) For projects having units assisted under Part 886, Subpart A, Section 8 Housing Assistance Payments Program—Special Allocation, the rents shall be determined pursuant to § 207.19(e)(2)(i) of this subchapter.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

4. Part 221 would be amended by revising paragraph (c) of § 221.531 to read as follows:

§ 221.531 [Amended]

(c) *Rents and charges.* The provision of § 220.511 of this subchapter shall apply, except that rent adjustments for projects insured or formerly insured on which the mortgage bears a below market rate or which have a contract pursuant to CFR Part 215 shall be only as set forth in § 207.19(e)(2)(i) of this subchapter. Rents for units assisted under 24 CFR Part 880, Section 8—New Construction or 24 CFR 881, Section 8 Substantial Rehabilitation, shall be determined pursuant to the applicable Section 8 Regulation.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

5. Part 236 would be amended by revising the introductory language of § 236.55(a) to read as follows:

§ 236.55 Rental charges.

(a) *Approved rental charges.* The Secretary shall process the maximum potential rent for the project pursuant to § 207.19(e)(2)(i) of this subchapter. The mortgagor shall, with the approval of the Secretary, establish and maintain for each dwelling unit the following:

* * * * *

(Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Sec. 211 of the National Housing Act, as amended, 12 U.S.C. 1715b.)

Dated: May 20, 1982.

Philip Abrams,

General Deputy Assistant Secretary—Deputy Federal Housing Commissioner.

[FR Doc. 82-16811 Filed 6-18-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-50-80]

Procedure for Electing $10 Million Limitation on Exempt Small Issues of Industrial Development Bonds and Increase in Limit on Size of Such Small Issues

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations which would revise the procedure for electing the $10 million limitation for exempt small issues of industrial development bonds. The amendments would also conform the regulations on exempt small issues to the increase in the limit on the size of such small issues, enacted by the Revenue Act of 1978, and would clarify rules regarding capital expenditures. The regulations would effect issuers of such exempt small issues and principal users of facilities financed with the proceeds of such issues and would provide the public with guidance needed to comply with the changed tax law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by August 23, 1982. The regulations relating to the procedure for electing the $10 million limitation are proposed to be effective upon publication of final regulations by a Treasury decision. The amendments relating to the increase in the limit on the size of small issues of industrial development bonds are proposed to be effective for such obligations issued after December 31, 1978, in taxable years ending after such date, and for capital expenditures made after December 31, 1978, with respect to such obligations issued before January 1, 1979.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-50-80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John A. Tolleris of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3294).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 103(b)(6)(D) of the Internal Revenue Code of 1954. These amendments would make revisions in the manner of electing the $10 million limitation for exempt small issues of industrial development bonds and for filing supplemental statements of capital expenditures. These amendments would also conform the Regulations to the increase in the limitation, from $5 million to $10 million, in the size of certain exempt small issues, enacted by section 331(a) of the Revenue Act of 1978 (92 Stat. 2839). The regulations are to be issued under the authority contained in sections 103(b)(6)(D) and 7805 of the Internal Revenue Code of 1954 (82 Stat. 1349, 26 U.S.C. 103(b)(6)(D); 68A Stat. 917, 26 U.S.C. 7805).

Procedure for Electing $10 Million Limit

The proposed amendments modify the election procedure to provide that issuers of exempt small issues of industrial development bonds must file the statement of election with the district director of the internal revenue district where the facility financed by the largest portion of the proceeds of the industrial development bonds is located. The proposed amendments would also

require all principal users of facilities financed by proceeds of these exempt small issues to file the annual supplemental statement of capital expenditures, required by existing § 1.103–10(b)(2)(vi)(*c*), with the district director of the internal revenue district where the facility financed by the largest portion of the proceeds is located. Finally, the proposed amendments would require certain additional information relating to the bond issuance to be submitted with the election statement filed by the issuer.

Clarification of Section 103(b)(6)(D) Capital Expenditures

To determine the size of an issue under § 1.103–10(b)(2), section 103(b)(6)(D) capital expenditures must be taken into account. In part, the definition of a section 103(b)(6)(D) capital expenditure provides that such an expenditure must be financed other than out of the proceeds of issues taken into account in determining the size of the issue. In the case of prior exempt small issues, only the outstanding face amount of the issue is taken into account. Thus, the difference between the original face amount and the outstanding face amount may be a section 103(b)(6)(D) capital expenditure. Section 1.103–10(b)(2) (i)(*a*) and (ii)(*a*) is amended to clarify this result.

Regulatory Flexibility Analysis

This regulation project will not have a significant economic impact on a substantial number of small entities and is, therefore, not subject to the requirements of the Regulatory Flexibility Act, because it will not significantly increase the reporting, recordkeeping or compliance burdens of the present regulations. Any significant economic impact resulting from the increase in the exempt small issue limitation flows directly from section 331(a) of the Revenue Act of 1978 and is, therefore, also not subject to the requirements of the Regulatory Flexibility Act.

Comments and Requests for a Public Hearing

Before adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 1

Income taxes, Taxable income, Deductions, Exemptions.

Proposed Amendments to the Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

The proposed amendments to 26 CFR Part 1 are as follows:

Section 1.103–10 (relating for certain small issues of industrial development bonds) is amended as follows:

(1) The phrase "Section 103(c)" is removed each place it appears as a reference or part of a reference and the phrase "section 103(b)" is inserted in lieu thereof as a reference or part of a reference.

(2) Paragraph (a) is amended by adding the following new sentence at the end thereof: "For bonds issued before January 1, 1979, in taxable years ending before such date, and for capital expenditures made before January 1, 1979, with respect to such bonds, paragraphs (b), (c), and (d) of this section shall be applied by substituting $5 million for $10 million."

(3) Paragraph (c)(2) is amended by revising the caption to read *"$10 million or less refinancing issue."* and by removing "$5" each place it appears and inserting in lieu thereof "$10".

(4) paragraph (d)(1) is amended by removing "$5" and inserting in lieu thereof "$10".

(5) Paragraph (d)(3)(ii) is amended by removing "$5" each place it appears and inserting in lieu thereof "$10".

(6) paragraph (b)(2) is amended by revising the caption and subdivisions (i), (ii)(*a*), and (vi) thereof, to read as follows:

§ 1.103–10 Exemption for certain small issues of industrial development bonds.

* * * * *

(b) *Small issue exemption.* * * *

(2) *$10 million or less.* (i) Under section 103(b)(6)(D), the issuing State or local governmental unit may elect to have an aggregate authorized face amount of $10 million or less, in lieu of the $1 million exemption otherwise provided for in section 103(b)(6)(A), with respect to issues of obligations which are industrial development bonds (within the meaning of section 103(b)(2)) issued after December 31, 1978. If such election is made in a timely manner, the bonds will be treated as obligations of a State or local governmental unit described in section 103(a)(1) and § 1.103–1 if the sum of—

(*a*) The aggregate face amount of the issue including the aggregate outstanding principal amount of any prior $1 million or $10 million exempt small issues taken into account under section 103(b)(6)(B) and paragraph (d) of this section, and

(*b*) The aggregate amount of "section 103(b)(6)(D) capital expenditures"(within the meaning of subdivision (ii) of this subparagraph) is $10 million or less. In the case of an issue of obligations which qualified for exemption under section 103(b)(6)(A) and this paragraph, if a section 103(b)(6)(D) capital expenditure made after the date of issue has the effect of making taxable the interest on such issue, under section 103(b)(6)(G) the loss of tax exemption for such interest shall begin only with the date on which the expenditure which caused the issue to cease to qualify under the $10 million limit was paid or incurred. See subdivision (vi) of this subparagraph for the time, place, and manner by which the issuer may elect the $10 million exemption. See section 103(b)(6)(H) and paragraph (c)(2) of this section for the treatment of certain refinancing issues of $10 million or less.

(ii) * * *

(*a*) The capital expenditure was financed other than out of the proceeds of issues to the extent such issues are taken into account under subdivision (i)(*a*) of this subparagraph,

* * * * *

(vi)(*a*) The issuer may make the election provided by section 103(b)(6)(D) and this subparagraph (assuming that the bonds otherwise qualify under section 103(b)(6)) by means of a statement signed by a duly authorized official that the governmental unit elects to have the provisions as to the $10 million limit in section 103(b)(6)(D) apply to an issue of industrial development bonds. The statement shall be filed, prior to the issuance of such industrial development bonds, with the district director of the internal revenue district where the facility acquired, constructed, reconstructed, or improved with the largest portion of the proceeds of such issue is located. A copy of this statement shall be furnished to each

person who is a principal user of the facility at any time within 3 years of the date of issuance of the obligations in question.

(*b*) The statement shall contain the following information:

(*1*) The name and address of the governmental unit,

(*2*) The name, address, and employer identification number of the principal user or users of such proceeds or facilities,

(*3*) The date and face amount of the issue,

(*4*) The date and amount of any outstanding issues the proceeds of which have been or will be used primarily with repect to facilities the principal user or users of which are or will be the same or related persons as those listed in (*2*) of this subdivision (vi)(*b*) and which are located in the same incorporated municipality or in the same county (outside of the incorporated municipalities in such county),

(*5*) The date and amount of any section 103(b)(6)(D) capital expenditures paid or incurred within the 3 years preceding the date of the issue for which the election is made with respect to facilities described in (*4*) of this subdivision (vi)(*b*);

(*6*) To the extent known by the issuer at the time that the statement is filed, a description of each leasehold interest in the facility for which there is a lease agreement, or a binding commitment to enter into a lease, which shall include the term of the lease, renewal options if any, rental, and the percentage of the fair rental value of the entire facility attributable to each lease or prospective lease,

(*7*) To the extent known by the issuer at the time the statement is filed, the name of the owner, or each of the owners, for tax purposes, of the facility,

(*8*) To the extent known by the issuer at the time the statement is filed, a description of any use of the facility made by other users, and

(*9*) A statement as to whether the issue in question was the subject of a written determination of the Internal Revenue Service at the request of the issuer. If there is any such writen determination, a copy thereof must be attached to the statement filed by the issuer.

(*c*) Each principal user shall also file an annual supplemental statement relating to the facility which lists by date and amount any subsequent section 103(b)(6)(D) capital expenditure. Such supplemental statement shall be filed with the district director of the internal revenue district where the facility acquired, constructed, reconstructed, or improved with the largest portion of the proceeds of the issue is located on the due date prescribed for filing the user's income tax return or information return (without regard to any extensions of time). With each supplemental statement, the principal user must also file a copy of the original election statement described in subparagraph (2)(i) of this paragraph (b). In the case of a State or local governmental unit or agency thereof which is a principal user of the facility in question, the supplemental statement must be filed within 60 days after the close of the governmental unit's fiscal year.

* * * * *

Roscoe L Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82-16851 Filed 6-21-82; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Parts 211, 221, 231, 250, and 270

Intent To Propose Rulemaking To Require the Designation of an Operator of Record and the Implementation of a Single Payor Plan for Each Lease

AGENCY: Geological Survey, Interior.

ACTION: Notice of intent to propose rulemaking and request for comments.

SUMMARY: The Minerals Management Service (MMS), formerly the Conservation Division of the U.S. Geological Survey (USGS), is considering a requirement designating an operator of record for each Federal, Outer Continental Shelf (OCS) or Indian mineral lease as well as a plan that would designate a single payor on each. The operator of record would be responsible for maintaining all lease production and sales records and for maintaining site security on the lease site. He would also be responsible for submitting rental and/or royalty payments for each Federal, OCS, or Indian mineral lease. The designation of both an operator of record and a single payor for each lease would fulfill a recommendation of the Commission on Fiscal Accountability of the Nation's Energy Resources.

DATES: Written comments and recommendation must be received on or before August 23, 1982.

ADDRESS: Written comments may be mailed or delivered to Mr. Raymond A. Hicks, Chief, Branch of Rules and Procedures for Royalty Management, Minerals Management Service—MS660, 12203 Sunrise Valley Drive, Room 6A220, Reston, VA 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond A. Hicks, (703) 860-7311 (FTS 928-7311).

SUPPLEMENTARY INFORMATION: On January 19, 1982, the Secretary of the Interior established the Minerals Management Service and transferred to it all functions previously exercised by the Conservation Division, U.S. Geological Survey, including administration of the regulatory programs cited herein. Secretarial Order No. 3071 (45 FR 4751, February 2, 1982).

The Commission on Fiscal Accountability of the Nation's Energy Resources made the following recommendation regarding the designation of an operator of record and single payor plan for each lease (Report, January 1982, p. 54):

"Operator of Record"

That the Federal royalty managers work toward the implementation of the concept of an "operator of record" for each lease and, where possible, a single payor; the operator of record would be responsible for maintaining all records related to the payment of royalties from that lease.

Each month after the payments are made, the operator of record would reconcile the payments with the production report, notify the Federal royalty managers of any discrepancies and the reasons for them, and provide the Federal royalty managers with the correct information. Where a single payor is possible, all payments for that lease would be made by one individual and all records kept by him.

We solicit comments and suggestions from the minerals industry on the advantages and disadvantages of designating an operator of record and implementation of a single payor plan for each lease/unit/ communitization agreement. Responses should cover such areas as:

(1) The impact these requirements would have on industry;

(2) Any additional workload requirements that may result;

(3) The cost in additional staffing, computer time, etc.; and

(4) The impact on the amount of time required to report and pay.

It is the intention of MMS that this procedure will be applied prospectively to all leases that begin production after the effective date of the rulemaking.

List of Subjects in 30 CFR Parts 211, 221, 231, 250, and 270

Mineral royalties, Royalty accounting.

Dated: June 15, 1982.

Robert E. Boldt,

Acting Associate Director for Royalty Management.

[FR Doc. 82-16783 Filed 6-21-82: 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Approval of the Abandoned Mine Land Reclamation Plan for the State of Indiana Under the Surface Mining Control and Reclamation Act of 1977; Reopening Public Comment Period

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

ACTION: Reopening public comment period.

SUMMARY: OSM is reopening the period for review and comment on the proposed Abandoned Mine Land Reclamation Plan (Plan) submitted by the State of Indiana under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on supplemental Plan documents submitted by the State to OSM on June 17, 1982.

DATES: Written comments, data and other relevant information relating to Indiana's Plan submission must be received on or before 4:00 p.m. (June 29, 1982) to be considered.

ADDRESSES: Comments on Indiana's revisions to its Plan should be sent to or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Administrative Records Center, Rm. 511, U.S. Court House and Federal Building, 46 East Ohio Street, Indianapolis, Indiana 46207. Copies of the full text of the Indiana Plan, including revisions are available for review during regular business hours at the following locations:

OSM Indiana State Office, Room 524, U.S. Court House and Federal Building, 46 East Ohio Street, Indianapolis, Indiana 46207

State of Indiana, Department of Natural Resources, 608 State Office Building, Indianapolis, Indiana 46204

Office of Surface Mining Reclamation and Enforcement, Administrative Record 5315, 1100 L Street NW., Washington, D.C. 20240.

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

SUPPLEMENTARY INFORMATION: On January 21, 1982, at 47 FR 3008-3010, the Office of Surface Mining, U.S. Department of the Interior, published notice or receipt of the Indiana Plan and the initiation of formal review and public comment. The comment period was slated to close at 5:00 p.m., February 22, 1982. Since that publication, Indiana has submitted additional docments for inclusion in its AML Plan.

In order to allow the public an opportunity to review and comment on the State's revisions, OSM is reopening and extended the comment period until at 4 p.m.

The announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of SMCRA.

Dated: June 18, 1982.

William Schmidt,

Assistant Director, Office of Surface Mining.

[FR Doc. 82-16891 Filed 6-21-82: 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Defense Criminal Investigative Service

32 CFR Part 293

[DCIS Reg. 5400.11]

Implementation of the Privacy Act of 1974

AGENCY: Defense Criminal Investigative Service, Defense.

ACTION: Notice of proposed rule making—Privacy Act of 1974.

SUMMARY: The newly established Defense Criminal Investigative Service proposes to establish rules for its implementation of the Privacy Act of 1974 and to exempt two of its proposed systems of records from certain portions of the Act.

DATES: Comments must be received on or before July 22, 1982.

ADDRESSES: Submit comments to The Director, Defense Criminal Investigative Service, P.O. Box 9290, Alexandria, VA 22304.

FOR FURTHER INFORMATION CONTACT: William G. Dupree, Deputy Director for Operations, Defense Criminal Investigative Service, P.O. Box 9290, Alexandria, VA 22304. Telephone: (202) 274-5360.

SUPPLEMENTARY INFORMATION: The Defense Criminal Investigative Service has been chartered as a criminal investigative agency of the Department of Defense with a primary mission of law enforcement (32 CFR Part 374). This regulation establishes that agency's program to implement the Privacy Act of 1974, Title 5 U.S.C. 552a (Pub. L. 93-579; 44 Stat. 1896, *et seq.*). In addition it proposes to exempt two systems of records identified as CIS-04, entitled: "Case Control System" and CIS-06, entitled: "investigative Files" from certain provisions of the Act under the provisions of 5 U.S.C. 552a(j)(2). These exemptions are necessary to protect criminal and fraud investigative information from premature disclosure, to protect the identity of informants and sources and to insure fair and impartial adjudication of investigations.

List of Subjects in 32 CFR Part 293

Privacy.

Accordingly, 32 CFR is amended by adding a new Part 293 as set forth below.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 16, 1982.

PART 293—DEFENSE CRIMINAL INVESTIGATIVE SERVICE IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Sec.

293.1 Purpose.
293.2 Definitions.
293.3 Information and procedures for requesting notification.
293.4 Requirements for identification.
293.5 Access by subject individuals.
293.6 Fees.
293.7 Requests for correction or amendment.
293.8 DCIS review of request for amendment.
293.9 Appeal of initial amendment decision.
293.10 Disclosure of DCIS records.
293.11 Penalties.
293.12 Exemptions.
293.13 Ownership of DCIS records.
293.14 Referral of records.

§ 293.1 Purpose.

Pursuant to the requirements of The Privacy Act of 1974 (5 U.S.C. 552a) the following rules of procedures are established with respect to access and amendment of records maintained by the Defense Criminal Investigative Service (DCIS) by the individual subjects of these records. These procedures do not apply to current or former DCIS who request access to records pertaining to themselves through normal DCIS channels or by writing the Director, DCIS, P.O. Box 9290, Alexandria, VA 22304.

§ 293.2 Definitions.

(a) All terms used in this part which are defined in 5 U.S.C. 552a shall have the same meaning herein.

(b) As used in this part, the term "agency" means the Defense Criminal Investigative Service.

§ 293.3 Information and procedures for requesting information.

(a) The following is a list of all systems of records maintained by DCIS:

Number	Title
CIS-01	Privacy and Freedom of Information Act Requests.
CIS-02	Applicant Records.
CIS-03	Personnel Locator Cards.
CIS-04	Case Control System.
CIS-05	Security Records.
CIS-06	Investigative Files.

(b) Individuals should submit inquiries regarding all DCISs files by mail to: Defense Criminal Investigative Service, P.O. Box 9290, Alexandria, VA 22304, Attn: FOIA/PA. Inquiries in person may be made Monday through Friday from 9 am to 3 pm at Building 8 Room D490, Cameron Station, Alexandria, VA 22314. All personal visits will require identification.

§ 293.4 Requirements for identification.

Only upon proper identification will any individual be granted access to records which pertain to him/her. Identification is required both for accurate record identification and to avoid disclosing records to unauthorized individuals. Requesters must provide their full name; maiden name or alias, if appropriate; date and place of birth; and Social Security Number. Where requests are made by mail, the requester's signature must be notarized. Inclusion of telephone number for the requester is recommended to expedite certain matters. Requesters applying in person must provide an identification with photograph such as a driver's license, military identification card, building pass, etc.

§ 293.5 Access by subject individuals.

(a) No individual will be allowed access to any information compiled or maintained in reasonable anticipation of civil or criminal actions or proceedings, or otherwise exempt under paragraph 12, below. Requests for pending investigations will be held in abeyance until completion of the investigation *and* all completion of the subsequent civil or criminal proceedings or actions.

(b) Any individual may authorize DCIS to provide a copy of his/her records to a third party. This authorization must be in writing and should be provided DCIS with the initial request.

§ 293.6 Fees.

Requesters will be charged only for the reproduction of requested documents and postal charges, if applicable. There will be no charge for the first copy of a record provided to any individual. Thereafter, fees will be computed as set forth in appropriate DoD Directives and Regulations.

§ 293.7 Request for correction or amendment.

(a) Requests to correct or amend a file shall be addressed to the system manager in which the file is located. The request must reasonably describe the record to be amended, the items to be changed as specifically as possible, the type of amendment (e.g. deletion, correction, amendment), and the reason for amendment. Reasons should address at least one of the following categories: accuracy, relevance, timeliness, completeness, fairness. The request should also include appropriate evidence which provide a basis for evaluating the request. Normally all documents submitted, to include court orders should be certified.

(b) Requirements of identification as outlined in section 4 apply to requests to correct or amend a file.

(c) Incomplete request will not be honored, but the requester will be contacted for the additional information needed to process the request.

(d) The alteration of evidence presented to courts, boards, and other official proceedings is not permitted by this section.

§ 293.8 DCIS review of request for amendment.

(a) A written acknowledgment of the receipt of a request for amendment of a record will be provided to the requester within 10 working days, unless final action regarding approval or denial will constitute acknowledgment.

(b) Where there is a determination to grant all or a portion of a request to amend a record, the record shall be promptly amended and the requesting individual notified. Individuals, agencies or components shown by accounting records to have received copies of the record, or to whom disclosure has been made, will be notified of the amendment by the responsible DCIS official. Where a DoD recipient of an investigative record cannot be located, the notification will be sent to the personnel security element of the Component to which the file was furnished.

(c) Where there is a determination to deny all or a portion of a request to amend a record, DCIS will promptly: Advise the requesting individual of the specifics of the refusal and the reasons; and inform the individual that he/she may request a review of the denial(s) from the Director, DCIS.

§ 293.9 Appeal of initial amendment decision.

(a) All appeals of an initial amendment decision should be addressed to the Director, DCIS, at the address given above. The appeal should be concise and should specify the reasons the requestor feels that the initial amendment action by DCIS was not satisfactory. Upon receipt of the appeal, the Director, DCIS will review the request and make a determination to approve or deny the appeal.

(b) If the Director, DCIS, decides to amend the record, the requester and all previous recipients of the disputed information will be notified of the amendment. If the appeal is denied, the DCIS will notify the requester of the reason for the denial, of the requester's right to file a statement of dispute disagreeing with the denial, that such statement of dispute will be retained in the file, that the statement will be provided to all future users of the file, and that the requester may file suit in a federal district court to contest the DCIS decision not to amend the record.

(c) The DCIS will respond to all appeals within 30 working days or will notify the requester of an estimated date of completion if the 30-day limit cannot be met.

§ 293.10 Disclosures of DCIS records to other than the subject.

(a) No record containing personally identifiable information within a DCIS system of records shall be disclosed by any means to any person or agency outside the Department of Defense, except with the written consent of the individual subject of the record or as provided for in the Act and DoD Directive 5400.11.

(b) Disclosures that may be made without the request or consent of the individual are enumerated at 5 U.S.C. 552a(b) and in the DoD Directive 5400.11.

§ 293.11 Penalties.

(a) An individual may bring a civil action against the DCIS to correct or amend the record, or where there is a refusal to comply with an individual request or failure to maintain any record with accuracy, relevance, timeliness and completeness, so as to guarantee fairness, or failure to comply with any other provision of the Privacy Act. The court may order correction or

amendment of records. The court may enjoin the DCIS from withholding the records and order the production of the record.

(b) Where it is determined that the action was willful or intentional with respect to 5 U.S.C. 552a(g)(1) (C) or (D), the United States shall be liable for the actual damages sustained, but in no case less than the sum of $1,000 and the costs of the action with attorney fees.

(c) Criminal penalties may be imposed against an officer or employee of the DCIS who discloses material, which he knows is prohibited from disclosure, or who willfully maintains a system of records without compliance with the notice requirements.

(d) Criminal penalties may be imposed against any person who knowingly and willfully requests or obtains any records concerning another individual from an agency under false pretenses.

(e) All of these offenses are misdemeanors with a fine not to exceed $5,000.

§ 293.12 Exemptions.

(a) The Director, DCIS, establishes the following exemptions of records systems from the provisions of these rules and indicated portions of the Privacy Act of 1974. The exemptions may be exercised by the Director, DCIS, the Associate Director of Investigative Operations and by the Associate Director of Programs and Management Systems.

(b) Exemptions will be exercised only when necessary for a specific, significant and legitimate reason connected with the purpose of a records system.

(c) No personal records releasable under the provisions of 5 U.S.C. 552 will be withheld from the subject individual based on these exemptions.

(d) Exempted systems are:

(1) System Identifier: CIS–06

System name: Investigative Files.

Exemption: All portions of this system which fall under 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5, U.S.C. 552a: (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g).

Authority: 5 U.S.C. 552a(j)(2).

Reasons. Exemption is required from these subsections in order to prevent disclosures concerning criminal files which would interfere with the investigation or jeopardize any subsequent judicial or administrative process taken as a result of information contained in the file.

(2) System Identifier: CIS–04

System name: Case Control System.

Exemption: All portions of this system which fall under 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5, U.S.C. 552a: (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G–H–I), (e)(5), (e)(8), (f), and (g).

Authority: 5 U.S.C. 552a(j)(2).

Reasons: Exemption is required from these subsections in order to prevent disclosures concerning criminal files which would interfere with the investigation or jeopardize any subsequent judical or administrative process taken as a result of information contained in the file.

§ 293.13 Ownership of DCIS Investigative Records.

(a) Criminal investigative reports shall not be retained by DoD recipient organizations. Such reports are the property of DCIS and are on loan to the recipient organization for the purpose for which requested or provided. All copies of such reports shall be destroyed within 180 days after the completion of the final action by the requesting organization.

(b) Investigative reports which require longer periods of retention may be retained only with the specific written approval of DCIS.

§ 293.14 Referral of Records.

A DCIS system of records may contain records which originated with other DoD Components of Federal agencies who may have claimed exemptions for them under the Privacy Act of 1974. When any action is initiated on a portion of records which may be exempt, consultation with the originating agency or component will be effected, and where appropriate such records will be referred to that component or agency for action.

[FR Doc. 82–16847 Filed 6–21–82; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[OPTS–00033; TSH–FRL No. 2152–8]

Administrator's Toxic Substances Advisory Committee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: There will be a meeting of the Administrator's Toxic Substances Advisory Committee (ATSAC) to discuss matters related to EPA's implementation of the Toxic Substances Control Act (Pub. L. 94–569). The meeting will be open to the public.

DATES: The meeting will be held from 9 a.m. to 4 p.m. on Thursday, July 8, 1982.

ADDRESS: The meeting will be held in: Rm. 3906–3908, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Phyllis B. Hetrick, Executive Secretary, Administrator's Toxic Substances Advisory Committee (TS–779), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–228, 401 M St., SW., Washington, DC 20460, (202–382–3721).

SUPPLEMENTARY INFORMATION: Dr. John A. Todhunter, Assistant Administrator for the Office of Pesticides and Toxic Substances, will discuss in general the impacts of the Toxic Substances Control Act (TSCA) on various sectors of society and the problem of assessing the impacts; he will also discuss the intent of TSCA to protect health and the environment against unreasonable risk and the consideration involved in defining "risk" reasonable and unreasonable. Mr. Don R. Clay, Director of the Office of Toxic Substances (OTS), will speak about the direction of OTS with emphasis on the plan for the existing chemicals program as set forth in the OTS 100-day report.

The afternoon session will focus on the TSCA section 8(c) proposed rule.

Six of the eleven members of ATSAC will begin 2-year terms of service on July 1, 1982. They are:

Robert G. Kerr, Executive Director, Georgia Conservancy.

Dr. Glenn Paulson, Vice President of Science, National Audubon Society.

Warren J. Rheaume, Assistant to the Director, Safety and Health Department, International Brotherhood of Teamsters.

Michael J. Scott, Corporate General Counsel, Mooney Chemical Inc.

Dr. Lynnette Solomon, Assistant Professor, Department of Economics and Finance, Stephan F. Austin University President, Texas Division, American Association of University Women.

Victoria J. Tschinkel, Secretary, Florida Department of Environmental Regulations.

The meeting will be open to the public, and time will be set aside for public comments concerning the work of the Committee. Any member of the public wishing to present an oral or written statement relating to the Committee's work should contact Dr. Phyllis Hetrick at the address or phone number listed above.

Dated: June 15, 1982.

Don R. Clay,

Acting Assistant Administrator, Pesticides and Toxic Substances.

[FR Doc. 82-16796 Filed 6-21-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 2

Administrative Practices and Procedures

AGENCY: Office of the Secretary, HHS.

ACTION: Proposed rule.

SUMMARY: These proposed rules would reaffirm the Department's policy ordinarily to use notice and comment procedures in the development of rules relating to public property, loans, grants, benefits, and contracts, even though such action is not required by the Administrative Procedure Act, and would set forth the circumstances for such use. The Secretary believes that public comment serves an important purpose in bringing the expertise and views of interested parties to the attention of the Department.

DATE: Comments should be submitted by August 23, 1982.

ADDRESS: Comments on these proposed rules should be submitted to: Executive Secretariat, Attn: Charlotte E. Lewis, Department of Health and Human Services, Room 632-H, Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: John J. Phelan, (202) 245-6111.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act (APA) establishes a general procedure for the issuance of rules and regulations (5 U.S.C. 553). That procedure includes issuance of a notice of proposed rulemaking, offering the public an opportunity to comment on the proposed rule, and publishing a final rule that is accompanied by a statement of the rule's basis and purpose. The APA exempts several types of rules from these requirements, including all rules relating to public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)).

The Department of Health and Human Services issues many rules in these categories, especially rules relating to grants and benefits. These include rules governing Social Security programs, Medicare, Medicaid, and various formula and project grants. Although for many years such rules were issued without the benefit of notice and comment procedures, that practice was ended in 1970. By a memorandum dated October 12, 1970, the Secretary directed all agencies and offices of the Department that issue rules and regulations relating to public property, loans, grants, benefits, or contracts ordinarily to utilize the public participation procedures of the APA. That memorandum was subsequently published in the **Federal Register** (36 FR 2532).

By this notice, the Secretary is reaffirming that it remains the policy of the Department ordinarily to use notice and comment procedures for rules relating to public property, loans, grants, benefits, and contracts, even though such action is not required by the APA. The Secretary believes that public comment serves an important purpose in bringing the expertise and views of interested parties to the attention of the Department. Proposed rules have frequently been modified and improved on the basis of public comment prior to issuance of final rules. We are proposing to add a new § 2.2 to the Department's regulations to confirm this policy formally.

Occasionally, it is necessary or appropriate to issue rules without the benefit of a prior public procedure. That situation typically arises when delay in issuing final rules would prevent the implementation of a beneficial program or when the rules are so technical and minor in nature that public comment is not anticipated. Whether to delay initiation of a program to solicit comment is frequently a matter of judgement. Sometimes rules resolve major issues that should have the benefit of public comment before they take effect, even at the expense of delaying implementation. At other times, the benefits of prompt program implementation may outweigh the advantages of notice and comment, particularly when the issues are relatively minor and public comment is solicited at the time the rules are issued.

The Administrative Procedure Act authorizes agencies to omit notice and comment procedures when the agency for good cause finds that notice and comment are "impracticable, unnecessary, or contrary to the public interest" (5 U.S.C. 553(b)(B)). Although this is the standard for waiving notice and comment in circumstances when there is a statutory requirement to use notice and comment procedures, some courts have applied the same standard where the Department has voluntarily undertaken generally to use such procedures with respect to rules governing grants and benefits. These rulings were apparently based on an interpretation of the 1970 memorandum of Secretary Richardson.

We do not believe, however, that it is appropriate for the Department to be held to the rigorous standard for omitting mandatory notice and comment procedures when those procedures are used voluntarily. Accordingly, the proposed regulations would make clear that the Department may properly omit use of notice and comment procedures for rules relating to public property, loans, grants, benefits, and contracts if, in the Department's judgement, the delay that would result from such procedures would impair the attainment of program objectives or would have other disadvantages that outweigh the benefits of receiving public comment prior to issuance of the rules. The proposed regulations would also clarify that the Department's voluntary use of notice and comment procedures is not intended to create any judicially enforceable rights.

In addition, the regulations would articulate the policy, already being followed, that where prior opportunity for notice and comment is not provided, public comment will ordinarily be solicited at the time the rules are issued. Use of final regulations with a comment period allows the Department to receive comment and revise the regulations accordingly even when prior opportunity for comment is not provided.

The proposed regulations address, as did Secretary Richardson's 1970 memorandum, only the notice and comment provisions of 5 U.S.C. 553. In particular, the Department would continue exercising its discretion in determining whether to use a 30-day delayed effective date for rules related to public property, loans, grants, benefits, or contracts. The APA requires such a delayed effective date only for rules to which the mandatory notice and comment procedures apply (5 U.S.C. 553(a)). Secretary Richardson's 1970 memorandum did not commit the Department to provide delayed effective dates, and the various units of the Department have adopted different practices as their programs warranted. This flexibility would be continued under the proposed regulations.

The Secretary emphasizes that no change in the Department's practice of generally using notice and comment procedures is intended. The intent of the regulations is simply to clarify that in those instances when the Department finds it necessary to omit notice and comment procedures, the courts should not review that action as if the Department had been legally obliged to

use notice and comment procedures. As a matter of policy, the Secretary is commtted to and will continue to seek public participation in rulemaking proceedings whenever feasible.

The proposed regulations would govern all units of the Department except the Food and Drug Administration, which has separate regulations governing administrative practices and procedures in 21 CFR Parts 10 *et seq.*

List of Subjects in 45 CFR Part 2

Administrative practice and procedures (Government agencies).

Therefore, it is proposed that Title 45 of the Code of Federal Regulations be amended by adding a new Part 2 as follows:

PART 2—ADMINISTRATIVE PRACTICE AND PROCEDURES

Sec.
2.1 Scope.
2.2 Rules relating to public property, loans, grants, benefits, and contracts.

Authority: 5 U.S.C. 301.

§ 2.1 Scope

This part governs administrative practices and procedures of all units of the Department of Health and Human Services except the Food and Drug Administration, for which such procedures are set forth in 21 CFR Parts 10 *et seq.*

§ 2.2 Rules relating to public property, loans, grants, benefits, and contracts.

(a) Provisions in the Administrative Procedure Act relating to rulemaking procedures (5 U.S.C. 553) do not apply to matters relating to public property, loans, grants, benefits, and contracts. Notwithstanding that exemption, the Department will, except as provided in paragraph (b) of this section, issued a notice of proposed rulemaking and offer the public an opportunity to comment on rules relating to public property, loans, grants, benefits, and contracts before they are promulgated in final form.

(b) The Department may omit the use of notice and comment procedures for rules relating to public property, loans, grants, benefits, and contracts if, in its judgment, the delay that would result from such procedures would impair the attainment of program objectives or would have other disadvantages that outweigh the benefits of receiving public comment prior to issuance of the rules. When opportunity for comment is not offered before issuance of a rule, such opportunity will be offered at the time the rule is promulgated, unless the rule is so technical in nature that no comment is anticipated.

(c) The provision in paragraph (a) of this section is intended only to guide the Department's internal rulemaking process and is not intended to create any right or benefit enforceable at law by a party against the Department or its officers.

Dated: May 25, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-16755 Filed 6-21-82; 8:45 am]

BILLING CODE 4150-04-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-305; RM-4055]

FM Broadcast Station in Valdosta, Georgia, Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 244A to Valdosta, Georgia, as its fourth commercial FM channel in response to a request from The Rainbow Group.

DATES: Comments must be filed on or before July 26, 1982, and reply comments on or before August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Phil Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: June 3, 1982.

Released: June 14, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Valdosta, Georgia), BC Docket No. 82-305 RM-4055.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making was filed by The Rainbow Group ("petitioner"), proposing the assignment of FM Channel 244A to Valdosta, Georgia.

(b) The channel can be assigned as proposed, consistent with the mileage separation requirements of the Commission's rules.

(c) Petitioner states that it will promptly apply for the channel, if assigned.

2. *Demographic Data:*

(a) Location: Valdosta, the seat of Lowndes County, is located approximately 336 kilometers (210 miles) southeast of Atlanta, Georgia.

(b) Population: Valdosta, 37,596, Lowndes County, 67,972 (1980 U.S. Census figures, Advance Report)

(c) Local Aural Broadcast Service:
FM Stations:
WGOV-FM, Channel 225
WLGA, Channel 240A
WAFT, Channel 266
WVVS, (Noncommercial Ed.) (Channel 215C)
AM Stations:
WGAF, (Unlimited time)
WGOV, (Unlimited time)
WVLD, (Unlimited time)
WJEM, (Daytime Only)

3. *Economic Consideration:*

Petitioner states that this is one of the more rapidly growing areas in the United States. The population of Valdosta is said to have increased 16% since the 1970 U.S. Census, and Lowndes County, 23%. Valdosta's economy is now primarily industrial, according to petitioner, and the largest employers are manufacturers of bags for food, lumber products, clothing and towels, linerboard and auto trim. Petitioner states that a new FM station on Channel 244A would serve a growing city with an increasing need for outlets for information and entertainment, and that such assignment would be preferable to letting the channel remain unused.

4. Petitioner lists four precluded communities with a population over 1,000, *i.e.*, Willacoochee, Nashville, Pearson and Lakeland, Georgia. It failed to provide a list of channels available for the four communities.

5. The established criterion for the assignment of FM channels to cities under 50,000 is one or two channels. The assignment proposed by the petitioner would give Valdosta a fourth commercial channel. Comments are invited on this matter.

6. The Commission believes that the peitition has sufficient merit to warrrant our proposing to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules with regard to Valdosta, as follows:

City	Channel No.	
	Present	Proposed
Valdosta, Ga	225, 240A, 266	225, 240A, 244A, 266

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in

the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before July 26, 1982, and reply comments on or before August 10, 1982, and are advised to read the Appendix for the proper procedures.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Philip Cross, Broadcast Bureau, (202) 632-5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contract is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes and *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communication Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-16844 Filed 6-21-82: 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-311; RM-4091]

FM Broadcast Station in Rexburg, Idaho; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Class C FM Channel 263 to Rexburg, Idaho, and reserve it for noncommercial educational use, in response to a petition filed by Ricks College.

DATES: Comments must be filed on or before July 26, 1982, and reply comments must be filed on or before August 10, 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.

Adopted: June 3, 1982.

Released: June 14, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Rexburg, Idaho), BC Docket No. 82-311 RM-4091.

1. A petition for rule making was filed by Ricks College ("petitioner"), licensee of noncommercial educational Station KRIC-FM (CP issued for Channel 211A), Rexburg, Idaho, proposing the assignment of Channel 263 to Rexburg for use as a noncommercial educational FM assignment. The channel can be assigned consistent with the minimum distance separation requirements of § 73.207 of the Commission's rules.

2. Rexburg (population 11,559),[1] the seat of Madison County (population 19,480), is located approximately 352 kilometers (220 miles) east of Boise, Idaho. Rexburg is served by full-time AM Station KRXX and co-owned Station KKQT(FM) (Channel 252A), as well as Station KADQ(FM) (Channel 232A), and noncommercial educational FM Station KRIC (licensed to petitioner).

3. Petitioner states that it wishes to upgrade its facility to Class C status[2] to

[1] Population figures are derived from the preliminary 1980 Census Reports.

[2] At the time this petition was filed, petitioner was operating as a Class D, 10-watt facility. As a protective measure, it simultaneously filed an application to increase power to a minimum Class A facility (construction permit pending), to conform with the Commission's directive in the *Second*

expand its coverage area so as to provide better service to the public and to satisfy the Commission's directive contained in the *Second Report and Order* in Docket No. 20735 (see fn. 2, *supra*). It indicates that it would prefer to implement its proposed increase in power to 25,000 watts on either its existing channel or another frequency in the noncommercial band. However, it asserts that this course of action is not feasible since TV Station KPVI, operating on VHF Channel 6 in Pocatello, Idaho, prevents such operation. Pocatello is located approximately 65 miles from Rexburg and petitioner claims that the Grade B contour of Station KPVI–TV extends into the Rexburg area. Consequently, it asserts that its proposed operation at 25,000 watts on any channel in the educational FM band has the potential for causing interference to the reception of KPVI–TV, either off-the-air or through a local cable television system. In support of its request, petitioner cites Commission precedent in *Presque Isle, Maine*, 36 R.R. 2d 840 (1976) *Muncie, Indiana*, 59 FCC 2d 778 (1976), and *Waco, Texas*, 11 R.R. 2d 1657 (1967), which assigned commercial channels for noncommercial educational use upon a finding that frequencies in the educational band were unavailable due to potential interference on television Channel 6.

4. Petitioner's engineering study reveals that if Channel 263 is assigned to Rexburg, Idaho, it would not preclude the allocation of FM channels elsewhere in Idaho since a multiplicity of other channels are available to the area.

5. A staff study verifies that there are no noncommercial channels available to Rexburg for a Class C operation which would not cause harmful interference to television Station KPVI. Since 1966, we have recognized the Channel 6 interference problem [3] and have sought to avoid the allocation of noncommercial educational frequencies on the lower end of the band. As petitioner recognizes, we have reserved commercial channels for noncommercial educational use in order to avoid the Channel 6 interference problem.

6. We find the proposal has merit since preclusion does not appear to be significant. Additionally, petitioner has demonstrated a need for a wide coverage area noncommercial educational station in the area.

7. In view of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Rexburg, Idaho, as follows:

City	Channel No.	
	Present	Proposed
Rexburg, Idaho	232A, 252A	232A, 252A, *263

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before July 26, 1982, and reply comments on or before August 10, 1982, and are advised to read the Appendix for the proper procedures.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commision's rules, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed consitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 305)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attched. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of

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Report and Order in Docket No. 20735, 43 FR 39704, published September 6, 1978. In order to foster th most efficient use of limited spectrum space, the Commission therein directed existing Class D stations to either increase their power to a minimum of 100 watts or move to another channel in order to make room for new stations or for power increases by existing ones.

[3] See, *Policy to Govern Change of FM Channels to Avoid Interference to TV Reception*, 6 RR 2d 672 (1966), and *FM Interference to TV Reception*, FCC 67–1012, *Public Notice*, released September 1, 1967.

service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-16803 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-307; RM-4058]

FM Broadcast Station in Mason City, Iowa; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 228A to Mason City, Iowa, as its second commercial FM channel, in response to a request from Radio Communications, Inc.

DATES: Comments must be filed on or before July 26, 1982, and reply comments on or before August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

Adopted: June 4, 1982.

Released: June 11, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Mason City, Iowa), BC Docket No. 82-307, RM-4058.

1. Radio Communications, Inc. ("petitioner") requests that commercial FM Channel 228A be assigned to Mason City, Iowa, as its second FM channel. Petitioner is licensee of AM Station KRIB in Mason City.

2. The proposed assignment would result in intermixture of Class A and Class C stations in Mason City, which petitioner is willing to accept.

3. Mason City (population 30,144),[1] the seat of Cerro Gordo County (population 48,458), is located approximately 168 kilometers (105 miles) north of Des Moines, Iowa. Petitioner states that Mason City is an educational, medical, social, cultural, and economic center for much of the north-central area of Iowa. It is the home of North Iowa Area Community College, serving a nine county area. It has two major medical facilities, i.e., St. Joseph Mercy Hospital and North Iowa Medical Center. There are 41 places of worship representing 16 faiths. Mason City's retail trade area includes over 175,000 persons in 9 Iowa counties. Mason City and its immediate environs are, according to petitioner, the area's major employment center with a total labor force of approximately 24,400 persons.

4. Mason City has the following local broadcast services:
AM:
KRIB (unlimited time)
KGLO (unlimited time)
KSMN (daytime-only)
FM:
KLSS, Class C Channel 291
KCMR (noncommercial educational)

5. Petitioner's preclusion study indicated that the communities of Lake Mills, Northwood, Manley, and Buffalo Center, Iowa, are precluded communities presently without local service.

6. Petitioner states that it will promptly apply for a construction permit to operate a station on the proposed channel if it is assigned as requested.

7. In view of the fact that the proposed FM channel assignment would provide for a second local FM broadcast service to Mason City, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commision's rules, as follows:

City	Channel No.	
	Present	Proposed
Mason City, Iowa	291	228A, 291

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before July 26, 1982, and reply comments on or before August 10, 1982, and are advised to read the Appendix for the proper procedures.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Philip S. Cross, Broadcast Bureau, (202) 632-5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commisson consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitues an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

[1] Population figures are derived from the 1980 U.S. Census, Advance Report.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who file comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-16846 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-309; RM-4094]

FM Broadcast Station in Deer Lodge, Montana; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of Channel 244A to Deer Lodge, Montana, in response to a petition filed by Deer Lodge Broadcasting, Inc. The proposed assignment could provide a first FM service to Deer Lodge.

DATES: Comments must be filed on or before July 26, 1982, and reply comments must be filed on or before August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

Adopted: June 4, 1982.

Released: June 11, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Deer Lodge, Montana), BC Docket No. 82-82-309, RM-4094.

1. A petition for rule making filed March 29, 1982, by Deer Lodge Broadcasting, Inc. ("petitioner") proposes the assignment of Channel 244A to Deer Lodge, Montana, as its first FM assignment. Petitioner expressed an interest in applying for the channel, if assigned.

2. Deer Lodge (population 4,023),[1] seat of Powell County (population 6,958), is located approximately 56 kilometers (35 miles) southwest of Helena, Montana. Deer Lodge is served by fulltime AM Station KDRG.

3. Petitioner states that Deer Lodge is governed by a mayor-council type government. It has a chamber of commerce, police and fire departments, schools through the high school level, adequate recreation facilities, and many active churches. The savings and loan institution and two banks serving Deer Lodge are said to be well secured with assets totaling in excess of $60 million. Petitioner states that ranching (raising livestock and producing hay) plays the major economic role in Deer Lodge. Also, a large sector of the work force is employed by the Montana State Prison, which is within the city limits, and two state hospitals in the area. Deer Lodge has one full-time AM station and one weekly newspaper. For these reasons, petitioner is of the opinion that Deer Lodge can support, and is in need of, a first FM assignment.

4. In view of the fact that the proposed assignment could provide a first local FM broadcast service to Deer Lodge, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Rules with regard to Deer Lodge, Montana, as follows:

[1] Population figures are derived from the 1980 U.S. Census, Advance Report.

City	Channel No.	
	Present	Proposed
Deer Lodge, Mont.		244A

5. Since Deer Lodge, Montana, is within 402 kilometers (250 miles) of the U.S.-Canadian border, the proposed assignment requires coordination with the Canadian government.

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before July 26, 1982, and reply comments on or before August 10, 1982, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Section 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.204(b) and 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Wahington, D.C.

[FR Doc. 82-16801 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-306; RM-4056]

FM Broadcast Station in Miles City, Montana; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to substitute FM Class C Channel 223 for Class A Channel 224A at Miles City, Montana, in response to a request by Miles City Broadcasting Corporation, permittee of Station KMCM, Channel 224A, Miles City, Montana.

DATES: Comments must be filed on or before July 26, 1982, and reply comments on or before August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: June 4, 1982.

Released: June 14, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Miles City, Montana), BC Docket No. 82-306, RM-4056.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making was filed by Miles City Broadcasting Corporation ("petitioner"), proposing the substitution of FM Channel 223 for Channel 224A in Miles City, Montana.

(b) Channel 223 can be assigned to Miles City consistent with the Commission's mileage separation rules.

(c) Petitioner, permittee of FM Station KMCM, Channel 224A, Miles City, requests that its construction permit be modified to specify operation on Channel 223.

2. *Demographic Data:*

(a) *Location:* Miles City, the seat of Custer County, is located approximately 216 kilometers (135 miles) northeast of Billings, Montana.

(b) *Population:* Miles City (9,602);[1] Custer County (13,109).

(c) *Local Aural Broadcast Service:* AM Station KATL (unlimited time) and FM Station KMCM (construction permit).

3. *Economic Considerations:* Petitioner states that Miles City, "the Heart of Custer County," is the commercial, educational and cultural hub for an estimated 42,500 ranchers and farmers scattered over a large area covering approximately 23,178 square miles. It is said that the Class IV AM station in Miles City, KATL, has limited radio service at night due to interference from other Class IV stations. Consequently, KATL provides only limited nighttime service to the rural population that looks to Miles City for its needs. Moreover, petitioner contends that its own authorized Class A station, KMCM, will not have a strong enough signal to meet the local service needs of the ranchers, farmers and tourists in surrounding areas. The problem is exacerbated, according to the petitioner, by the rough terrain in the Miles City vicinity, leaving many areas "shadowed" from reception of the Class A signal.

4. Where modification of license or construction permit is requested to specify operation on a Class C channel instead of a Class A channel, the request can only be granted if no other party expresses a desire to apply for the newly assigned channel. Other interested parties are afforded an equal opportunity to file an application and to be given consideration for the new channel. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 [1976].

5. In view of the additional service which the Class C channel would provide to the public, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 72.202(b) of the Commission's Rules with regard to Miles City, Montana, as follows:

City	Channel No.	
	Present	Proposed
Miles City, Mont	224A	223C

6. Canadian concurrence in the proposal will be requested.

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before July 26, 1982, and reply comments on or before August 10, 1982, and are advised to read the Appendix for the proper procedures.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Philip S. Cross, Broadcast Bureau, (202) 632–5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filing.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-16802 Filed 6-21-82: 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-310; RM-4090]

FM Broadcast Stations in Healdton, Oklahoma; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of a Class A FM channel to Healdton, Oklahoma, in response to a petition filed by Douglas Dillard and Albert Russen, jr. The proposed assignment could provide a first local aural broadcast service to Healdton.

DATES: Comments must be filed on or before July 26, 1982, and reply comments on or before August 10, 1982.

ADDRESS: Federal Communications Commission Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792).

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: June 4, 1982.

Released: June 14, 1982.

In the matter of Amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations. (Healdton, Oklahoma), BC Docket No. 82–310 RM–4090.

1. The Commission herein considers a petition for rule making filed March 23, 1982, by Douglas Dillard and Albert Riessen, Jr. ("petitioners") proposing the assignment of FM Channel 288A to Healdton, Oklahoma, as that community's first FM assignment. Petitioners state that if this channel is assigned to Healdton, they will apply for a construction permit promptly.

2. Healdton (population 2,324)[1] is located in Carter County (population 37,349), approximately 144 kilometers (90 miles) south of Oklahoma City, Oklahoma.

3. Petitioners state that Healdton's 1980 population was 3,769 persons and the county's population was 43,610 persons according to a U.S. population booklet for Oklahoma. Petitioners urge the assignment of Channel 288A to Healdton to provide a first local aural service to the community and nearby Carter County area.

[1] Population figures are taken from the 1970 U.S. Census.

4. The transmitter site must be restricted to 5 miles southeast of the city to meet spacing requirements to Station KXXK in Chickasha, Oklahoma.

5. In view of the fact that the proposed assignment could provide Healdton with its first local aural broadcast service, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Healdton, Oklahoma	—	288A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before July 26, 1982, and reply comments on or before August 10, 1982, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Section 603 and 604 of the Regulatory Fexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contract is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 134, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Conterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proprosed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-16845 Filed 6-21-82: 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-308; RM-4059]

FM Broadcast Station Medford, Oregon; Proposed Changes in Table of Assignments

AGENCY: Federal Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to substitute Channel 239 for Channel 237A in Medford, Oregon, in response to a request from M-3-X, Inc., licensee of Station KBOY-FM, Medford, and modify its license to specify the new channel.

DATES: Comments must be filed on or before July 26, 1982, and reply comments on or before August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

Adopted: June 4, 1982.

Released: June 11, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Medford, Oregon), BC Docket No. 82-308, RM-4059.

1. M-3-X, Inc., licensee of FM Station KBOY-FM, Medford, Oregon, requests that Class C Channel 235 be substituted for the Class A Channel 237A on which it now operates. M-3-X also requests that its license be modified to specify operation on Channel 235.

2. M-3-X states that the assignment would remedy a longstanding intermixture problem in Medford. Two channels are assigned to Medford. One is a Class A, and the other is a Class C (Station KTMT, Channel 229). M-3-X claims that it is at a disadvantage in competing with the Class C station. It also claims that Station KBOY-FM has

had significant problems in adequately serving its community of license due to the rugged terrain of the area. Shadowing problems are also reported. M–3–X concludes that the only way to overcome these problems is to utilize a Class C channel.

3. Medford (population 39,603)[1] is the seat of Jackson County (population 132,456), and is located 352 kilometers (220 miles) south of Portland, Oregon.

4. Medford has five AM and two FM services, as follows:

AM DKBOY (daytime only)
KMED (unlimited time)
KHUG (daytime only)
KISD (daytime only)
KYJC (unlimited time)
FM KBOY–FM, Channel 237A
KTMT, Channel 229

M–3–X states that its proposal would provide a first FM service to 130 square kilometers (51 square miles) for 384 persons and a second FM service to 1,000 square kilometers (391 square miles) for 359 persons.

5. Since Channel 235 is being considered for assignment to North Bend, Oregon (BC Docket No. 81–155), we have decided to substitute Class C Channel 239 for consideration herein.

6. M–3–X's request that its license be modified to specify operation on a Class C channel must by viewed in light of established Commission policy. Other interested parties who might want to apply for use of the new channel will be provided an opportunity to express that interest in comments. Only in the absence of such interest may the license for Station KBOY–FM by modified to specify the Class C channel. See *Cheyenne, Wyoming*, 62, F.C.C. 2d 63 (1976).

7. In view of the above, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, as follows:

City	Channel No.	
	Present	Proposed
Medford, Oregon	229, 237A	229, 239

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

[1] Population figures are taken from the 1980 U.S. Census.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before July 26, 1982, and reply comments on or before August 10, 1982, and are advised to read the Appendix for the proper procedures.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not appply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Phillip S. Cross, Broadcast Bureau, (202) 632–5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve, channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission,

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.204(b) and 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in rely comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82–16809 Filed 6–21–82; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1248

[No. 38797]

Revision to Quarterly and Annual Report of Freight Commodity Statistics for Class I Railroads (Form QCS)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission is proposing a revised Quarterly and Annual Report of Freight Commodity Statistics (Form QCS). This revised report would continue to provide essential statistical information for regulatory costing applications while reducing the number of commodity codes that Class I railroads would report from 464 to 128.

DATES: Comments must be received on or before August 6, 1982. Proposed effective date: January 1, 1983.

ADDRESS: An original and 15 copies of any comments should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr. (202) 275–7448.

SUPPLEMENTARY INFORMATION:

Background

Form QCS, Freight Commodity Statistics, is prepared by each Class I railroad and is filed with the Commission on a quarterly and annual basis. The report is based on the code structure of the Commodity Classification for Transportation Statistics issued by the Office of Management and Budget.

The Commission uses Form QCS statistical information to develop performance factors relating to carloads and tons carried. These performance factors are used for apportioning certain expenses to line-haul and switching services. Further, they are also used to apportion switching expenses to various types of switching.

The Commission's Policy Statement on Financial and Statistical Reporting (44 FR 27537, served May 7, 1979, limits reporting requirements to items essential to Commission needs. Specifically, items in periodical reports should contain only information needed regularly and frequently. Further, the Staggers Rail Act of 1980 (49 U.S.C. 11166) generally limits Commission reports to information essential for cost accounting objectives or compliance with generally accepted accounting principles.

This abbreviated Form QCS should satisfy Commission costing objectives while minimizing the carrier reporting efforts. We recognize that other entities may desire more detailed freight commodity statistics. However, the Commission shall adjust its reporting requirements whenever it is clearly evident that periodically filed carrier information is no longer needed for regulatory purposes on a regular or frequent basis.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Commission has certified that this notice will not have a significant economic impact on a substantial number of small entities. This notice directly affects Class I railroads having annual operating revenues of $50 million or more.

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1248

Freight, Railroads, Reporting requirements, Statistics.

(5 U.S.C. 553 and 49 U.S.C. 10321)

We propose the adoption of the revised Form QCS, Freight Commodity Statistics, detailed in Appendix A, for the reporting year ending December 31, 1983. If the proposed Form QCS is adopted, § 1248.101 of Chapter 49 of the Code of Federal Regulations listing the commodity code numbers and descriptions would be amended accordingly. Appendix B illustrates how the proposed deleted codes would be reported in a less detailed grouping.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Decided: June 10, 1982.

James H. Bayne,

Acting Secretary.

BILLING CODE 7035-01-M

PROPOSED REVISED QCS REPORT*

Approved by OMB
3120-0031

Form QCS
Page 1

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT COMMODITY STATISTICS

.....QUARTER, 1983

Full name of respondent .....
(If a system report, check here ( ), and under Remarks, page , name operating roads included)

Number of miles of road operated in freight service (See instructions) .....
(State in whole numbers)

For CALENDAR YEAR 1983
(Strike out one)

Code	Description (a)	Revenue Freight Originating on Respondent's Road				Revenue Freight Received From Connecting Carrier's				Gross Freight Revenue (Dollars) (j)	Code
		Terminating on line		Delivered to connecting carriers		Terminating on line		Delivered to connecting carriers			
		Number of carloads (b)	Number of tons (2,000 lbs.) (c)	Number of carloads (d)	Number of tons (2,000 lbs.) (e)	Number of carloads (f)	Number of tons (2,000 lbs.) (g)	Number of carloads (h)	Number of tons (2,000 lbs.) (i)		
01	FARM PRODUCTS.....T										01
011	Field Crops.....T										011
01121	Cotton in bales										01121
01131	Barley										01131
01132	Corn, except popcorn										01132
01133	Oats										01133
01134	Rice, rough										01134
01135	Rye										01135
01136	Sorghum grains										01136
01137	Wheat, except buckwheat										01137
01139	Grain, nec										01139
01144	Soybeans										01144
01195	Potatoes, other than sweet										01195
012	Fresh Fruits and Tree Nuts.....T										012
013	Fresh Vegetables.....T										013
0141	Livestock										0141
08	FOREST PRODUCTS.....T										08
09	FRESH FISH AND OTHER MARINE PRODUCTS.....T										09
10	METALLIC ORES.....T										10
101	Iron Ores										101
102	Copper Ores										102
105	Bauxite and Other Aluminum Ores										105
11	COAL.....T										11
111	Anthracite										111
112	Bituminous Coal and Lignite										112

SAMPLE

*If adopted, 49 CFR 1248 would be revised accordingly.

Form QCS

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT COMMODITY STATISTICS

Code	Description	Revenue Freight Originating on Respondent's Road				Revenue Freight Received From Connecting Carrier's				Gross Freight Revenue (Dollars)	Code
		Terminating on line		Delivered to connecting carriers		Terminating on line		Delivered to connecting carriers			
	(a)	Number of carloads (b)	Number of tons (2,000 lbs.) (c)	Number of carloads (d)	Number of tons (2,000 lbs.) (e)	Number of carloads (f)	Number of tons (2,000 lbs.) (g)	Number of carloads (h)	Number of tons (2,000 lbs.) (i)	(j)	
13	CRUDE PETRO, NAT GAS & NAT GSLN----------T										13
14	NONMETALLIC MINERALS, EXCEPT FUELS----------T										14
142	Crushed and Broken Stone, including riprap----------										142
144	Sand and Gravel ----------										144
145	Clay, Ceramic and Refractory Minerals ----------										145
147	Chemical and Fertilizer Minerals ----------										147
19	ORDNANCE AND ACCESSORIES----------										19
20	FOOD AND KINDRED PRODUCTS----------T										20
201	Meat (inc Poultry & Small Game), Fresh, Chld or Frzn----------T										201
2011	Meat, fresh or chilled, except salted ----------										2011
2012	Meat, fresh-frozen ----------										2012
2013	Meat, products ----------										2013
2016	Dsd poultry, sml game & rltd prd; frsh frozn ----------										2016
202	Dairy Products----------										202
203	Canned and Preserved Fruits, Veg & Sea Foods -----T										203
2031	Canned and cured sea foods ----------										2031
2032	Canned specialties ----------										2032
2033	Canned fruits, vegetables, jams, jellies, preserves----------										2033
2035	Pkld fruits & veg, sauces, seng, salad drsg----------										2035
2037	Frzn fruits, fruit juices and vegetables ----------										2037
2039	Canned & preserved fruits, veg & sea foods, nec----------										2039
204	Grain Mill Products----------T										204
2041	Flour and other grain mill products----------										2041
20421	Prepared feed for animals, fish & poultry, exc canned----------										20421
2043	Cereal Preparations----------										2043
2044	Milled rice, flour and meal----------										2044
2045	Blended and prepared flour----------										2045
2046	Wet corn milling products and by-products ----------										2046
208	Sugar (Beet and Cane)----------T										208

SAMPLE

Form OCS
Page 3

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT COMMODITY STATISTICS

..... QUARTER, 1983

Full name of respondent .....

For CALENDAR YEAR 1983
(Strike out one)

Code	Description	Revenue Freight Originating on Respondent's Road				Revenue Freight Received From Connecting Carrier's				Gross Freight Revenue (Dollars)	Code
		Terminating on line		Delivered to connecting carriers		Terminating on line		Delivered to connecting carriers			
	(a)	Number of carloads (b)	Number of tons (2,000 lbs.) (c)	Number of carloads (d)	Number of tons (2,000 lbs.) (e)	Number of carloads (f)	Number of tons (2,000 lbs.) (g)	Number of carloads (h)	Number of tons (2,000 lbs.) (i)	(j)	
2062	Sugar, refined: Cane and Beet										2062
208	Beverages and Flavoring Extracts----T										208
20821	Beer, ale, porter, stout: bottled, bbls, cans & kegs										20821
2084	Wines, brandy, and brandy spirits										2084
20851	Distilled, rectified and blended liquors										20851
209	Mis Food Preparations & Kindred Products										209
21	TOBACCO PRODUCTS----T										21
22	TEXTILE PRODUCTS----T										22
23	APPAREL & OTHER FINISHED TEXTILE PRD, INC KNIT----T										23
24	LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE----T										24
241	Prim Forest Prd (Pipwd, Ping, Posts, Logs, Bolts, etc)										241
242	Sawmill and Planing Mill Products----T										242
243	Millwork, Veneer, Plywood, Prefab Strtl Wood Prod										243
2432	Veneer and plywood										2432
25	FURNITURE AND FIXTURES----T										25
251	Household and Office Furniture										251
26	PULP, PAPER AND ALLIED PRODUCTS----T										26
261	Pulp and Pulp Mill Products										261
262	Paper, Except Building Paper										262
26211	Newsprint										26211
263	Paperboard, Pulpboard & Fiberboard, exc Insulating Board										263

SAMPLE

Form QCS

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT COMMODITY STATISTICS

Code	Description	Revenue Freight Originating on Respondent's Road				Revenue Freight Received From Connecting Carrier's				Gross Freight Revenue (Dollars)	Code
		Terminating on line		Delivered to connecting carriers		Terminating on line		Delivered to connecting carriers			
	(a)	Number of carloads (b)	Number of tons (2,000 lbs.) (c)	Number of carloads (d)	Number of tons (2,000 lbs.) (e)	Number of carloads (f)	Number of tons (2,000 lbs.) (g)	Number of carloads (h)	Number of tons (2,000 lbs.) (i)	(j)	
264	Converted Paper & Paperbd Prd exc Containers and Boxes										264
265	Containers & Boxes, Paperboard, Fiberboard & Pulpboard										265
266	Building Paper and Building Board										266
27	PRINTED MATTER T										27
28	CHEMICALS AND ALLIED PRODUCTS T										28
281	Industrial, Inorganic and Organic Chemicals										281
282	Plstc Materials & Syn Resins, Syn Rubbers & Fibers										282
284	Soap, Dtrgns & Clng Preps; Camcs, Oth Toilet Preps										284
286	Gum and Wood Chemicals										286
287	Agricultural Chemicals										287
29	PETROLEUM AND COAL PRODUCTS T										29
291	Products of Petroleum Refining										291
295	Paving and Roofing Materials										295
299	Miscellaneous Petroleum and Coal Products										299
30	RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS T										30
301	Tires and Inner Tubes										301
31	LEATHER AND LEATHER PRODUCTS T										31
32	STONE, CLAY, GLASS AND CONCRETE PRODUCTS T										32
321	Flat Glass										321
322	Glass & Glassware, Pressed and Blown										322
324	Hydraulic Cement										324
325	Structural Clay Products T										325
32511	Brick and blocks, clay and shale										32511

SAMPLE

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT COMMODITY STATISTICS

Form OCS
Page 5

---------- QUARTER, 1983

Full name of respondent ----------

For CALENDAR YEAR 1983
(Strike out one)

Code	Description	Revenue Freight Originating on Respondent's Road				Revenue Freight Received From Connecting Carrier's				Gross Freight Revenue (Dollars)	Code
		Terminating on line		Delivered to connecting carriers		Terminating on line		Delivered to connecting carriers			
	(a)	Number of carloads (b)	Number of tons (2,000 lbs.) (c)	Number of carloads (d)	Number of tons (2,000 lbs.) (e)	Number of carloads (f)	Number of tons (2,000 lbs.) (g)	Number of carloads (h)	Number of tons (2,000 lbs.) (i)	(j)	
327	Concrete, Gypsum & Plaster Products										327
329	Abrasives, Abestos, Misc Non-metallic Mnrl Prd										329
33	PRIMARY METAL PRODUCTS----------T										33
331	Steel Works and Rolling Mill Products										331
332	Iron and Steel Castings										332
333	Nonferrous Metals Primary Smelter Products										333
335	Nonferrous Metal Basic Shapes										335
34	FABR METAL PRD, EXC ORDN, MACHY & TRANSP--T										34
341	Metal Cans										341
344	Fabricated Structural Metal Products										344
35	MACHINERY, EXCEPT ELECTRICAL----------T										35
352	Farm Machinery and Equipment										352
353	Constr, Mining & Materials Handling Equipment										353
36	ELECTRICAL MACHINERY, EQUIPMENT AND SUPPLIES----------T										36
363	Household Appliances										363
37	TRANSPORTATION EQUIPMENT----------T										37
371	Motor Vehicles and Motor Vehicle Equipment -------T										371
3711	Motor vehicles										3711
3714	Motor vehicle parts and accessories										3714
374	Railroad Equipment										374
38	INSTRUMENTS, PHOTO & OPTICAL GD, WATCHES & CLOCKS----------T										38
39	MISCELLANEOUS PRODUCTS OF MANUFACTURING ----------T										39
394	Toys, Amusement, Sporting and Athletic Goods										394

SAMPLE

Form QCS

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT COMMODITY STATISTICS

Code	Description (a)	Revenue Freight Originating on Respondent's Road				Revenue Freight Received From Connecting Carriers				Gross Freight Revenue (Dollars) (j)	Code
		Terminating on line		Delivered to connecting carriers		Terminating on line		Delivered to connecting carriers			
		Number of carloads (b)	Number of tons (2,000 lbs.) (c)	Number of carloads (d)	Number of tons (2,000 lbs.) (e)	Number of carloads (f)	Number of tons (2,000 lbs.) (g)	Number of carloads (h)	Number of tons (2,000 lbs.) (i)		
40	WASTE AND SCRAP MATERIALS ----T										40
41	MISC FREIGHT SHIPMENTS----T										41
42	CONTAINERS, SHIPPING, RETURNED EMPTY ----T										42
44	FREIGHT FORWARDER TRAFFIC ----T										44
45	SHIPPER ASSOCIATION OR SIMILAR TRAFFIC ----T										45
46	MISC MIXED SHIPMENTS EXC FWDR (44) & SHPR ASSN (45) ----T										46
	GRAND TOTAL, CARLOAD TRAFFIC----T										
47	SMALL PACKAGED FREIGHT SHIPMENTS ----T	XXXXXXXX		XXXXXXXX		XXXXXXXX		XXXXXXXX			47
	GRAND TOTAL, CARLOAD AND LCL TRAFFIC ----T	XXXXXXXX		XXXXXXXX		XXXXXXXX		XXXXXXXX			

SAMPLE

---------- QUARTER, 19--- or CALENDAR YEAR 19--

The blank below should be completed if freight service operations were not conducted during the entire period for which the form provides:

REPORT COVERS THE PERIOD from ----------, 19 --, to ---------- , 19 ----------

CERTIFICATION

I, THE UNDERSIGNED _____
(Title of officer in charge of the accounts)

of the _____ Company, state that this report was prepared by me or
(Full name of reporting company)

under my supervision; that I have carefully examined it; and on the basis of my knowledge, belief, and verification (where necessary) I declare it to be a full, true and correct statement of the freight commodity statistics named, and that the various items here reported were determined in accordance with effective rules promulgated by the Interstate Commerce Commission.

Address _____
(P.O. Box or Street) (City) (State) (Zip Code)

Date ----------,19------ Telephone Number _____
(Area code) (Number)

REMARKS

(Check one):

☐ This report includes all commodity statistics for the period covered.

☐ A supplemental report has been filed covering traffic involving less than three shippers reportable in any one commodity code.

☐ Supplemental Report NOT OPEN TO PUBLIC INSPECTION.

This space for use of the Interstate Commerce Commission only

BILING CODE 7035-01-C

Quarterly Report of Freight Commodity Statistics

To the Interstate Commerce Commision: Form QCS. I.C.C. Commodity Statistics

INSTRUCTIONS

Under the Commission's order of September 13, 1963, effective January 1, 1964, Class I railroads, other than switching and terminal companies, are required to classify commodities transported on the basis of commodity codes named in 49 CFR 1248.1, and make quarterly and annual reports of such freight traffic statistics.

Carload and LCL Traffic Defined. Codes 01 through 46 shall include only carload traffic. All shipments weighing less than 10,000 pounds shall be included in code 47, "Small Packaged Freight Shipments, including LCL."

A "carload" for the purpose of this report shall consist of a shipment of not less than 10,000 pounds of one commodity. A mixed carload shall be treated as a carload of that commodity which forms the major portion of the shipment in weight. If a single shipment is loaded into more than one car, each car used shall be reported as a carload. If more than one "carload" shipment is loaded into one car, each shipment shall be reported separately as a carload.

"Originated on respondent's road" means: (a) Shipments originated directly on respondent's road (b) shipments received from water lines and highway motor truck lines, except when identified as having had previous rail transportation; (c) shipments which received first line haul on respondent's road, but originated on switching lines connecting directly or indirectly with respondent's road; (d) import traffic received from water carriers, and traffic from outlying possessions of the United States; (e) outbound freight which has been accorded transit privileges.

"Received from connecting rail carriers" means: (a) All shipments received directly from connecting rail carriers; (b) shipment received from water lines and highway motor truck lines, when identified from information on waybills or abstracts as having received previous rail transportation; (c) shipments received from connecting rail carriers operating in Canada or Mexico; (d) lake cargo coal received at Upper Lake ports; (e) iron ore received at Lower Lake and St. Lawrence River ports; (f) tidewater coal from Atlantic ports.

"Terminated on line" means: (a) Shipments terminated directly on respondents' road; (b) shipments delivered to water lines and highway motor truck lines, except when identified as to receive further rail transportation; (c) shipments which receive last line haul on respondent's road, but are delivered to switching roads connecting directly or indirectly with respondent's road; (d) export traffic delivered to water carriers and shipments to outlying possessions of the United States; (e) inbound freight which has been accorded transit privileges.

"Delivered to connecting rail carrier" means: (a) All shipments delivered directly to connecting rail carriers; (b) shipments delivered to water lines and highway motor truck lines when identified from information on the waybills or abstracts to receive further rail transportation; (c) Shipments delivered to connecting rail carriers operating in Canada and Mexico; (d) lake cargo coal delivered to Lower Lake and St. Lawrence River ports for transshipment by vessel; (e) iron ore delivered to Upper Lake ports for transshipment by vessel; (f) tidewater coal to Atlantic ports.

"Gross freight revenue" means respondent's gross revenue from freight without adjustment for absorptions or corrections.

"Classify" means to assign an article of freight to its appropriate commodity class which may be a 3, 4 or 5-digit number. Always classify an article in the highest digit level possible Use a 5-digit code if the article may be properly assigned to it. If there is no applicable 5-digit code, use a 4-digit code if available. If there is no applicable 4-digit code, then the article is classified at the 3-digit level.

For a 5-digit code, report the sum of all freight classified thereunder. For a 4-digit code, report the sum of all freight classified thereunder plus the sum of all 5-digit codes where the first four digits match. For a 3-digit code, report the sum of all 4-digit code numbers where the first three digits match, plus 5-digit code numbers where the first three digits match (provided they are not included in 4-digit codes), plus any articles classified at the 3-digit level. Generally, the 3-digit codes are used as summaries. The 2-digit level is a summary of 3-digit codes where the first two digits match.

"Piggyback traffic" is classified in the applicable commodity code if the commodity can be identified; where the commodity cannot be identified, classify in code 46.

"Freight Forwarder Traffic" Code 44, includes freight traffic in carloads, shipped by or consigned to any forwarder holding a permit under 49 U.S.C. 10561.

"Shipper Association or similar Traffic," Code 45, includes freight traffic in carloads shipped by a non-profit shipper association where the commodity cannot be identified; where the commodity can be identified, classify in the applicable commodity code.

"If a respondent carrier did not conduct operations during the whole of any reporting period within the calendar year, the period covered by the returns should be clearly specified in the space provided.

The item, "Number of miles of road operated in freight service," should only represent single-track mileage at the end of a particular quarter. It includes lines operated under trackage rights, except when excludable because the lines are in joint or common use by carriers within a system. It excludes industrial tracks, yard tracks and sidings. The number of miles of road reported for the year shall be the average of the amounts reported for each quarter in the year.

The reports shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commision, Washington, D.C. 20423, on or before the 60th day succeeding the close of the period for which they are compiled.

COMPUTER PRINTOUT OF FREIGHT COMMODITY STATISTICS AS ALTERNATE TO FILING FORM QCS

Carriers may elect to furnish the data on computer printouts in conformity with the following:

Two copies of the computer printout shall be filed on grade of paper of not less than medium weight, bursted and assembled into separate reports. Reports must be balanced, and the report for the *calendar* programs for the balancing and listing of the report will be made available upon request to the Section of Systems Development, Interstate Commerce Commission.

The computer printout must reflect the detail and format of Form QCS. The printout must consist of the same number of pages as Form QCS, each page including the name of respondent, the period covered by the report and the same code numbers per page. Page 6 shall include information now required under the "Remarks" section of page 6, QCS, and the Certification. In addition, under "Remarks," the carrier shall include the following instructions and appropriate response: "If a system report, check here ( ), and name operating carriers included."

Interstate Commerce Commission Quarterly Report of Freight Commodity Statistics

Abbreviations Used in Commodity Descriptions

assn	association
bbls	barrels

Abbreviations Used in Commodity Descriptions|—Continued

chld	chilled
cing	cleaning
constr	construction
csmc	cosmetic (s)
drsd	dressesd
drsg	dressing
dtrgn	detergent (s)
etc	et cetera
exc	except
fabr	fabricated
frsh	fresh
frzn	frozen
fwdr	forwarder
gd	good (s)
gsln	gasoline
inc	including
LCL	less than carload
machy	machinery
misc	miscellaneous
mnrl	mineral (s)
nat	natural
nec	not elsewhere classified
ordn	ordnance
oth	other
papbd	paperboard
petro	petroleum
pkld	pickled
ping	pilling, planing
plpwd	pulpwood
plstc	plastic
prefab	prefabricated
prep	preparations
prim	primary
prd	product (s)
rltd	related
shpr	shipper
sml	small
ssng	seasoning
strtl	structural
syn	synthetic
transp	transportation
veg	vegetable (s)

Appendix B—Proposed Deleted Commodity Codes

The Commission proposes that the three, four or five-digit commodity codes listed below be removed from the QCS report. This information is no longer needed by the Commission on a regular or frequent basis and would be aggregated and reported at the appropriate level.

Proposed deleted codes	Aggregated to code
0112, 0114, 0115, 0119, 01193, 01197	011
0121, 0122, 01221, 01224, 01226, 0123, 01232, 0129, 01295	012
0131, 01318, 0133, 01334, 01335, 0134, 01341, 01342, 0139, 01392, 01394, 01398	013
014, 01411, 01413, 01414, 0142, 0143, 01431, 015, 0151, 0152, 019, 0191, 0192	01
084, 08423, 086	08
091, 0912, 09131, 098	09
103, 1031, 1032, 104, 106, 107, 108, 109	10
10112	101
11111, 11112	111
1121	112
131, 132	13
141	14
14211, 14212, 14219	142
14411, 14412, 14413	144
14511, 14512, 14514	145
14711, 14713, 14714, 14715, 14716	147
149, 14911, 14913, 14914	14
191, 192, 193, 194, 195, 196, 199	19
2014, 20141, 2015, 2017	201
2021, 2023, 2024, 2025, 2026	202
2034, 2036, 2038	203
20411, 20412, 20423, 20461, 20462, 20463	204
205, 207	20
2061, 20611, 20616, 20617, 20625, 20626	206
20823, 2083, 20859, 2086, 2087	208
20911, 20914, 20921, 20923, 2093, 2094, 2095, 2096, 2097, 2098	209
211, 212, 213, 214	21
221, 222, 223, 224, 225, 227, 228, 229, 2296, 2297, 2298	22
231, 233, 235, 237, 238, 239,	23
24114, 24115, 24116	241
2421, 24212, 2429	242
2431	243
244, 249, 2491	24
253, 254, 259	25
2611	261
26212, 26213, 26214, 26217, 26218	262
2643, 26471	264
26613	266
271, 272, 273, 274, 276, 277, 278, 279	27
2812, 28121, 2813, 2814, 2816, 2818, 28184, 2819, 28193	281
28212, 28213	282
283, 285, 289, 2892, 28991	28
2841	284
2871	287
29111, 29112, 29113, 29114, 29115, 29116, 29117, 29119, 2912	291
2951, 2952	295
29911, 29913, 29914	299
302, 303, 304, 306, 307	30
311, 312, 313, 314, 315, 316, 319	31
3221	322
32411	324
326, 328	32
3251, 3253, 3255, 3259, 32594	325
3271, 3274, 3275	327
3291, 3295	329
33111, 33112, 33119, 3312, 33121, 3313, 3315	331
33211	332
3331, 3332, 3333, 3334	333
3351, 3352, 3357	335
336, 3361, 3362, 339, 3391, 3392	33
342, 343, 3433, 345, 346, 348, 349, 3491, 3494	34
3441, 34411	344
351, 354, 355, 356, 357, 358, 359,	35
3524	352
3531, 3532, 3533, 3537	353
361, 362, 364, 365, 366, 367, 369	36
3631, 3632, 3633	363
37111, 37112, 37113	3711
3712, 3713, 3715	371
37147	3714
372, 373, 375, 376, 379	37
37422	374
381, 382, 383, 384, 385, 386, 387	38
391, 393, 395, 396, 399	39
3949	394
401, 402, 4021, 40211, 4022, 4024, 4026	40
411, 41111, 41114, 41115, 412	41
421, 422	42
441	44
451	45
461, 462	46
471	47

[FR Doc. 82-16533 Filed 6-21-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of Status—Smoky Madtom ("Noturus baileyi)"

AGENCY: Fish and Wildlife Service Interior.

ACTION: Notice of review.

SUMMARY: The Service is reviewing the status of the smoky madtom (*Noturus baileyi*) to determine if the species and its habitat should be provided protection under the Endangered Species Act of 1973, as amended. This fish is presently known only from Citico Creek, a tributary of the Little Tennessee River in Monroe County, Tennessee. Because of the fish's limited distribution, the species could conceivably be rendered extinct by a single catastropic event that would adversely affect its habitat. Based on information provided through the notice of review process and other data on the species status, the Service will determine if the smoky madtom should be proposed for inclusion on the Federal Endangered species list.

The Service also is requesting information on environmental and economic impacts and effects on small entities that would result from listing the smoky madtom as an Endangered or Threatened species, and information on possible alternatives to the listing.

DATES: Comments must be received on or before September 20, 1982.

ADDRESSES: Interested persons, organizations, agencies, and governments are requsted to submit comments to Area Manager, U.S. Fish and Wildlife Service, 50 South French Broad Avenue, Plateau Building, Room A–5, Asherville, North Carolina 28801. Comments and material relating to this notice are available for public inspection by appointment during normal business hours at above address (Commercial 704/258–2850, Extension 321, FTS 672–0321).

FOR FURTHER INFORMATION CONTACT: For further information on this notice, contact Mr. Richard Biggins or Mr. Robert Currie, U.S. Fish and Wildlife Service, 50 South French Broad Avenue, Plateau Building, Room A-5, Asheville, North Carolin 28801 (Commercial 704/258–2850, Extension 321, FTS 672–0321).

SUPPLEMENTARY INFORMATION: Background. The smoky madtom (*Noturus baileyi*) was believed extinct until September 1980 when it was discovered by a U.S. Fish and Wildlife

Service survey crew sampling in Citico Creek, a tributary of the Little Tennessee River in Monroe County, Tennessee. Presently, this is the only population known to exist. The Service will continue to survey streams in this area to determine whether the species exists in other waters.

The species was originally discovered in 1957 in Abrams Creek, another Little Tennessee River tributary in nearby Blount County, Tennessee, by a Service crew which was treating the creek with a fish toxicant to remove unwanted fish species from the Chilhowee Reservoir watershed prior to closure of Chilhowee Dam. This was a routine procedure at that time, designed to enhance the chances of establishing a trout fishery in the new reservoir. Soon thereafter, the Abrams Creek locality, where the madtom was first discovered, was flooded by the closure of Chilhowee Dam.

The biology of this madtom is poorly known. However, the fish are probably nocturnal, and likely feed on aquatic insects. The species, due to its apparent limited distribution, is very vulnerable to a single catastrophic event which could completely eliminate the species. The fish's habitat could also be adversely impacted from logging, road construction, or other disturbance within the Citico Creek Watershed if these activities are not carefully designed and carried out with the welfare of the species in mind.

Also, the Service is requesting information on environmental and economic impacts and effects on small entities (including small businesses, small organizations and small governmental jurisdictions) that would result from the listing of the smoky madtom as an Endangered or Threatened species, and information on possible alternatives to the listing. This information will aid the Service in complying with the requirements of the National Environmental Policy Act, Executive Order 12291 on Federal Regulation, and the Regulatory Flexibility Act, and in preparing any required analyses of effect.

Factors Affecting Listing a Species and Critical Habitat

The Service's listing regulations (Section 424.11(b), Title 50, Code of Federal Regulations) state:

"A species shall be listed if the Director determines on the basis of the best scientific and commercial data available to him after conducting a review of the species' status that the species is Endangered or Threatened because of any one or a combination of the following factors:

1. The present or threatened destruction, modification, or curtailment of its habitat or range;
2. Utilization for commercial, sporting, scientific, or educational purposes at levels that detrimentally affect it;
3. Disease or predation;
4. Absence of regulatory mechanisms adequate to prevent the decline of a species or degradation of its habitat; and
5. Other natural or manmade factors affecting its continued existence."

These same regulations, section 424, define "Critical Habitat" as follows:

"* * * include (a) areas within the geographical area occupied by the species at the time that species is listed which are essential to the conservation of the species and (b) which may require special management considerations or protection; and specific areas outside the geographic area occupied by the species at the time, upon a determination by the Secretary that such areas are essential for the conservation of the species."

"(a) Critical Habitat shall be specified to the maximum extent prudent at the time a species is proposed for addition to the list * * *.

(b) The Director shall consider in determining what areas are Critical Habitat those physiological, behavioral, ecological, and evolutionary requirements essential to the conservation of the species and which may require special management consideration or protection. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing of offspring, germination, or see dispersal; and generally,

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of listed species * * *.

(c) The Director shall identify the significant activities which would either affect an area considered for designation as Critical Habitat or be likely to be affected by the designation, and shall consider the reasonably probable economic and other impacts of the designation upon such activities * * *."

Effects of this Notice of Review

This notice is a public announcement of the Service's intent to collect data on the status of the smoky madtom and its habitat, and to solicit information on likely economic and other impacts which could result were the species and its Critical Habitat proposed for and finally given Federal Endangered Species Act protection.

This notice does not formally bring the smoky madtom under the protection of the 1973 Endangered Species Act. Consequently, there will be no effect on Federal activities through section 7 of the Act. This notice also does not imply any prohibition on taking of the species as stated in section 9 of the Endangered Species Act nor does it commit the Service to ultimately propose the species for listing under the Act.

Public Comments Solicited

The Service is seeking comments from the Governor of Tennessee on this species and its potential Critical Habitat. With this Notice of Review, the Service is also inviting and requesting anyone who may have information on this species to contact the Area Manager, U.S. Fish and Wildlife Service, at the address above. Although all comments are welcome, the Service has particular interest in receiving comments on the following:

1. Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the smoky madtom.
2. The location of and the reasons why any habitat of the smoky madtom should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act.
3. Additional information concerning the range and distribution of this species.
4. Current or planned activities which may or are adversely affecting Citico Creek or the smoky madtom.
5. Foreseeable economic and other impacts on small businesses and organizations and on federally funded or authorized projects of designating smoky madtom Critical Habitat.

The Service will analyze all data that it now has, as well as any data obtained resulting from this review, and from any future research which may be conducted. If our analysis indicates that the smoky madtom should be given Endangered Species Act protection, the Service will propose the species for listing. The listing process for a proposed species would afford additional opportunities for interested parties to comment prior to any decision by the Service to proceed toward formally listing the smoky madtom as an Endangered or Threatened species.

The following documents were consulted in preparing this notice:

Rhode, F.C. 1980. *Noturus baileyi* (Taylor) pp. 449. *In:* D.S. Lee et al. Atlas of North America Freshwater Fishes. NC State Mus. or Natur. Hist., Raleigh. i–x + 854 pp.

Starnes, W.W. and D.A. Etnier. 1980. Fishes. p. 111–112. *In:* Eagar, D.C. and R.M. Hatcher (eds.). Tennessee's Rare Wildlife, Vol. I: The Vertebrates. Tennessee Wildlife Resources Agency and Tennessee Conservation Dept. 337 pp.

This notice of review was prepared by Richard Biggins, U.S. Fish and Wildlife Service, Asherville Area Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: June 15, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-16784 Filed 6-21-82: 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 47, No. 120
Tuesday, June 22, 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

Forest Service

Big Frog and Citico Creek Wilderness Study Areas; Hearing Announcement

Notice is hereby given that public hearings will be held to consider proposals for future management of Big Frog and the Citico Creek Wilderness Study Areas in the States of Tennessee and Georgia. The Big Frog Wilderness Study Area comprises approximately 4,972 acres within the Cherokee National Forest, Polk County, Tennessee, and approximately 83 acres in the Chattahoochee National Forest, Fannin County, Georgia. The Citico Creek Wilderness Study Area comprises approximately 16,576 acres in the Cherokee National Forest, Monroe County, Tennessee. Hearing dates and locations are as follows:

August 23, 1982, at 7:30 p.m. in the County Courthouse at Chatsworth, Georgia, to consider the Big Frog Wilderness Study Area proposal;

August 24, 1982, at 7:30 p.m., in the County Courthouse at Athens, Tennessee, to consider the Big Frog and Citico Creek Wilderness Study Area proposals.

Maps of the study areas and information about the proposals may be obtained from the Forest Service, Cherokee National Forest, PO Box 2010, Cleveland, Tennessee, 37311.

Individuals and organizations may express their views by appearing at these hearings or by submitting written comments for inclusion in the official record to the Forest Supervisor, Cherokee National Forest, PO Box 2010, Cleveland, Tennessee, 37311.

To be included in the official record, written comments must be received by September 25, 1982.

Dated: June 14, 1982.

R. Max Peterson,

Chief.

[FR Doc. 82-16758 Filed 6-21-82; 8:45 am]

BILLING CODE 3410-11-M

Tongass National Forest, Ketchikan, Alaska, Amendments 2, 3, and 4 to 1980-1983 Plan of Operations for Exploration Activities at Quartz Hill; Intent To Prepare an Environmental Impact Statement

The U.S. Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement for the 1980-1983 Plan of Operations, Amendments 2, 3 & 4, for U.S. Borax and Chemical Corporation exploration activities in the Quartz Hill area. The project area is located near Wilson Arm and Boca de Quadra in the Misty Fiords National Monument. Alternatives to be developed, but not limited to, are No Action and the proposed Plan of Operations.

The scoping process will involve participation by Federal, State and local agencies, organizations, and individuals who may be interested in or affected by the decision. This will include: (a) Identification of those issues to be addressed; (b) identification of issues to be analyzed in depth; and (c) elimination of insignificant issues or issues not related to the amendments. This will be conducted through written solicitation, small group meetings, or notice sent to news media and interested groups and individuals.

The U.S. Department of Interior, U.S. Department of Commerce, and the State of Alaska will be consulted during the analysis per the requirements of the Alaska National Interest Lands Conservation Act, Section 505(a).

The Draft Environmental Impact Statement will be issued no later than August 30th, 1982, and the Final Statement is anticipated for release by November 15th, 1982. Implementation of the selected alternative would begin 30 days later.

The responsible official is Win Green, Forest Supervisor, Ketchikan Area, Tongass National Forest. Comments on the Notice of Intent or the Proposed Activity should be sent to David J. Barber, Inter-disciplinary Team Leader, Ketchikan Area, Tongass National Forest, Federal Building, Ketchikan, Alaska 99901, telephone (907) 225-3101.

Win Green,

Forest Supervisor.

[FR Doc. 82-16760 Filed 6-21-82; 8:45 am]

BILLING CODE 3410-11-M

Lincoln National Forest Grazing Advisory Board; Cancellation of Meeting

This is official notification that the Lincoln National Forest Grazing Advisory Board meeting scheduled to be held at 10:30 a.m., July 7, 1982, at the Holiday Inn, Highway 70, Ruidoso, New Mexico, has been cancelled.

James R. Abbott,

Forest Supervisor.

June 14, 1982.

[FR Doc. 82-16828 Filed 6-21-82; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Arizona Electric Power Cooperative, Inc.

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and REA Bulletin 20-21:320-21, Environmental Policies and Procedures, has made a Finding of No.Significant Impact with respect to proposed financing assistance to Arizona Electric Power Cooperative, Inc., (AEPCO) of Benson, Arizona, for the construction of 15 km (9.3 mi) of 230 kV transmission line and associated terminal facilities in Mohave County, Arizona.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment, and AEPCO's Borrower's Environmental Report (BER) are available at the Office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382-1400 (FTS: 382-1400), or at the office of the Manager, AEPCO, P.O. Box 670,

Benson, Arizona 85602, telephone (602) 586–3631.

SUPPLEMENTARY INFORMATION: REA has reviewed the BER submitted by AEPCO and has determined that it represents an accurate description of the environmental impact of the proposed project.

The proposed project consists of 15 km (9.3 mi) of 230 kV transmission line that will interconnect at Western Area Power Administration's Switchyard at Davis Dam and will be terminated at a new 230/69 kV substation proposed for construction in Riviera. Based upon the BER, maps, communications between AEPCO and REA, and information from other sources, REA prepared an Enviromental Assessment (EA) concerning the proposed project and its impacts. REA concluded that the proposed construction would not be a major Federal action significantly affecting the qualify of the human environment.

The BER and EA adequately consider potential impacts of the proposed project on environmental resources including threatened and endangered species, important farmlands, cultural resources, wetlands and floodplains. The construction of the substation will not impact any of these resources except cultural resources. No practicable alternative to avoiding them was found. The cultural resources to be disturbed are common to the area and the actual loss will be small; furthermore, AEPCO will follow the mitigative measures described in the EA to reduce the overall adverse effect. The Arizona State Historic Preservation Officer has been contacted about these sites and has no objection to the construction of the proposed facilities providing that AEPCO takes the prescribed mitigative measures to minimize the impact to them.

Alternatives to the proposed project include no action, conservation only, new 69 kV facilities, and tapping Western Area Power Administration's 230 kV Davis to Parker line. After reviewing these alternatives, REA determined that the proposed project is an acceptable alternative because it meets AEPCO's needs with minimum adverse impacts.

This program is listed in the Catalog of Federal domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: June 14, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82–16716 Filed 6–21–82: 8:45 am]

BILLING CODE 3410–15–M

Soil Conservation Service

County Road Backslopes, Critical Area Treatment R.C. & D. Measure Plan, Habersham County, Ga.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the County Road Backslopes Critical Area Treatment Measure Plan, Habersham County, Georgia.

FOR FURTHER INFORMATION CONTACT: Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue (P.O. Box 832), Athens, Georgia 30613, telephone 404–546–2273.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Dwight M. Treadway, State Conservationist has determined that the preparation and review of an environmental impact statement are not needed for this project.

The objectives of the sponsors are to treat the backslopes of a county road. Treatment of these eroding backslopes will serve to (1) stablilize sediment-producing areas, (2) reduce runoff and erosion, (3) reduce sediment reaching streams and Lake Hartwell, (4) reduce road maintenance cost, and (5) ehance aesthetic apperance.

The Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Dwight M. Treadway.

No adminstrative action on implementation of the proposal will be taken unitl July 22, 2982.

(Catalog of Federal Domestic Assistance Program No. 10,901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 10, 1982.

Dwight M. Treadway,

State Conservationist.

[FR Doc. 82–16833 Filed 6–21–82: 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

Commuter Fitness Determination

The Board is proposing to find the following carriers fit, willing and able to provide commuter air carrier service under section 419 (c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
82–6–85	Wheeler Airlines	July 6, 1982.
82–6–86	Sunbelt Airlines, Inc.	July 6, 1982.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data for Order 82–6–85 with the Special Authorities Division, Room 915, and for Order 82–6–86 with the Essential Air Services Division, Room 921, 1825 Connecticut Avenue, N.W., 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 Order 82–6–85: Ms. Joyce Snovitch, (202) 673–5405; and for Order 82–6–86: Arthur Barnes, (202)673–5343, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428.

By the Civil Aeronautics Board: June 16, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–16808 Filed 6–21–82: 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Modification of Permit; Brent Stewart

Notice is hereby given that pursuant to the provisions of § 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals, Permit No. 341 issued to Mr. Brent Stewart, Field Biologist, Hubbs-Sea World Research Institute, 1700 South Shores Road, Mission Bay, San Diego, California 92109 (46 FR 30679), as modified (46 FR 55129), is further modified as follows:

Section B is Modified to add:

8. "Blood samples may be collected from harbor seals and northern elephant seals pups which are authorized to be tagged as described in the application and modification requests."

This modification is effective June 22, 1982. The Permit, as modified, is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: June 15, 1982.

R. B. Brumsted,

Acting Deputy Director, Office of the Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-16853 Filed 6-21-82; 8:45 am]

BILLING CODE 3510-22-M

Modification of Permit; Brent Stewart

Notice is hereby given that pursuant to the provisions of § 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals, the Scientific Research Permit No. 367 issued to Mr. Brent Stewart, Field Biologist, Hubbs-Sea World Research Institute, 1700 South Shores Road, Mission Bay, San Diego, California 92109 (47 FR 4549), is hereby modified as follows:

Section A is Modified to read:

1. "Up to 180 harbor seals (*Phoca vitulina*) may be captured, tagged blood sampled, and released over a period of three years as described in the application and modification requests.
2. Up to 30 harbor seals per year may be captured, radio tagged, blood sampled, and released as described in the application and modification requests."

This modification is June 22, 1982. The permit, as modified, is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region 300, South Ferry Street, Terminal Island, California 90731.

Dated: June 15, 1982.

R. B. Brumsted,

Acting Deputy Director, Office of the Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-16854 Filed 6-21-82; 8:45 am]

BILLING CODE 3510-22-M

Sea Grant Review Panel; Meeting

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

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The purpose of the meeting is to discuss the current posture and new alternatives for management of the Sea Grant Program. A joint discussion will be held with the Sea Grant Directors on the second day to discuss potential impacts of new management strategy, legislation, administrative and fiscal changes, as well as the future role of the Review Panel.

DATE: The announced meeting is scheduled for two days, July 19 and 20, 1982 as follows: July 19, 1982 2:00–5:00 p.m.; July 20, 1982 9:00–5:00 p.m.

ADDRESS: The meeting will be held at: Statler Hilton Hotel, 16th and K Streets NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur G. Alexiou, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852, (301) 443–8894.

SUPPLEMENTARY INFORMATION: The Panel, which consists of balanced representation from academia, industry, state government, and citizens groups, was established in accordance with the Sea Grant Program Improvement Act of 1976, Public Law 94–461. This Act, first signed into law on October 8, 1976, requires the Secretary of Commerce to establish and maintain a Sea Grant Review Panel to advise the Secretary, the Administrator of NOAA, and the Director of the Program on the conduct of this program.

The agenda for the meeting is:

Monday, July 19, 1982

2:00–5:00 p.m.—Discussion of current posture and anticipated management alternatives for the Sea Grant Program.

Tuesday, July 20, 1982

9:00–12:00 noon—Discussion with Sea Grant Directors on: Management changes being implemented for Sea Grant College Programs: New Review Procedures—On-Campus Events in Lieu of Site Visits.

3:30–5:00 p.m.—Future Role of the Review Panel in New Management Strategy.

The meeting will be open to the public.

Dated: June 15, 1982.

Francis J. Balint,

Director, Office of Information and Management Services.

[FR Doc. 82-16827 Filed 6-21-82; 8:45 am]

BILLING CODE 3510-12-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meetings

June 11, 1982.

The USAF Scientific Advisory Board Ad Hoc Committee on Advanced Electronics will meet at the Pentagon on July 20–21 and also on July 27–28, 1982, convening at 9:00 a.m. and adjourning at 5:00 p.m. each day. The purpose of the meetings will be to receive classified briefings and hold classified discussions on the alternatives for application of advancing electronics technology in aircraft avionics and systems.

The meetings will be closed to the public in accordance with Section 552b(c) of Title 5, United State Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-16768 Filed 6-21-82; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday, 7 July 1982, Thursday, 8 July 1982.

Times: 0830–1700 hours, 7 July (Closed); 0830–1600 hours, 8 July (Closed).

Place: Letterman Army Institute of Research, Presidio of San Francisco, CA.

Agenda: The Army Science Board Ad Hoc Subgroup on Laser Eye Protection will meet to receive classified briefings on laser programs, hold discussions of same, and to hold an executive writing session. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695–3039 or 697–9703.

Maria P. Galvan,

Acting Administrative Officer.

[FR Doc. 82-16921 Filed 6-21-82: 8:45 am]

BILLING CODE 3710-08-M

Department of the Army Performance Review Boards; Members

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Boards for the Department of the Army for 1982.

EFFECTIVE DATE: June 23, 1982.

FOR FURTHER INFORMATION CONTACT: Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, Washington, DC 20310, (202) 697–2204.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Each board's review and recommendation will include only those senior executive's appraisals from their respective commands or activities. A consolidated board has been established for those commands who do not have enough senior executives to warrant the establishment of separate boards. Publication of this notice rescinds notices published in 46 FR, No. 134, dated 14 July 1981, and page 40249, dated August 7, 1981, to account for additions and deletions to the membership of those boards previously published.

The Members of the Performance Review Board for the Office, Secretary of the Army (OSA), their Field Operating and Joint DoD Activities are:

1. Mr. Milton H. Hamilton, Administrative Assistant to the Secretary of the Army, Office, Secretary of the Army.
2. Mr. Robert K. Dawson, Principal Deputy Assistant Secretary of the Army (Civil Works), Office, Assistant Secretary of the Army (Civil Works).
3. Mrs. Susan J. Crawford, Principal Deputy General Counsel, Office, General Counsel.
4. Ms. Amoretta M. Hoeber, Deputy Assistant Secretary of the Army (Research and Development), Office, Assistant Secretary of the Army (Research, Development and Acquisition).
5. Mr. John F. Wallace, Deputy for Management Systems, Office, Assistant Secretary of the Army (Installations, Logistics, and Financial Management).
6. Brigadier General Johnnie H. Corns, Deputy Chief of Legislative Liaison, Office, Chief of Legislative Liaison.
7. Mr. Walter W. Hollis, Deputy Under Secretary of the Army (Operations Research), Office, Under Secretary of the Army.
8. Mr. Clayton N. Gompf, Deputy for Military Personnel Policy and Programs, Office, Assistant Secretary of the Army (Manpower and Reserve Affairs).
9. Mr. Peter Stein, Deputy Administrative Assistant to the Secretary of the Army, Office, Secretary of the Army.
10. Mr. Darrell L. Peck, Deputy General Counsel (Military and Civil Affairs), Office, General Counsel.
11. Mr. George E. Dausman, Deputy for Materiel Acquisition Management, Office, Assistant Secretary of the Army (Research, Development and Acquisition).
12. Mr. Joseph L. Miller, Deputy for Resources Analysis, Office, Assistant Secretary of the Army (Installations, Logistics and Financial Management).
13. Mr. Francis X. Plant, Deputy Assistant Secretary of the Army (DA Review Boards and Personnel Security), Office, Assistant Secretary of the Army (Manpower and Reserve Affairs).

The Members of the Performance Review for the Office of the Chief of Staff, Army are:

1. Mr. Jack H. Kalish, Director, Ballistic Missile Defense Program Office.
2. Mr. James D. Carlson, Director, Ballistic Missile Defense Advance Technology Center.
3. Brigadier General James E. Drummond, Deputy Director, Army Materiel Systems Analysis Activity, Aberdeen Proving Ground, Maryland.
4. Mr. Arthur T. Walker, Deputy Director of Army Budget, Office of the Comptroller of the Army.
5. Mr. Wayne M. Allen, Director of Cost Analysis, Office of the Comptroller of the Army.
6. Mr. Charles W. Weatherholt, Deputy Director of Civilian Personnel, Directorate of Civilian Personnel, Office of the Deputy Chief of Staff for Personnel.
7. Major General Walter J. Mehl, Director, Manpower Programs and Budget, Office of the Deputy Chief of Staff for Personnel.
8. Mr. Edgar P. Vandiver III, Technical Director, Office of the Deputy Chief of Staff for Operations and Plans.
9. Mr. Joseph P. Cribbins, Special Assistant to the Deputy Chief of Staff for Logistics and Chief, Aviation Logistics Office, Office of the Deputy Chief of Staff for Logistics.
10. Dr. Robert J. Heaston, Weapons System Technology Manager, Office of the Deputy Chief of Staff for Research, Development and Acquisition.
11. Mr. Charles H. Church, Assistant Director for Technology, Office of the Deputy Chief of Staff for Research, Development and Acquisition.
12. Brigadier General William G. T. Tuttle, Jr., Director, Force Management, Office of the Deputy Chief of Staff for Operations and Plans.
13. Major General Homer S. Long, Jr., Assistant Deputy Chief of Staff for Operations and Plans.
14. Dr. Marvin E. Lasser, Chief Scientist and Director of Research, Office of the Deputy Chief of Staff for Research, Development and Acquisition.
15. Mr. Henry J. Fischer, Director, Personnel and Force Management Audits, Army Audit Agency.
16. Mr. Harold L. Stugart, The Auditor General.
17. Mr. Michael A. Janoski, Deputy Auditor General.
18. Brigadier General Phillip H. Mason, Deputy Director, Combat Support Systems, Office of the Deputy Chief of Staff for Research, Development and Acquistion.
19. Mr. Charles N. Davidson, Technical Director, U.S. Army Nuclear Agency.
20. Major General Aaron L. Lilley, Jr., Assistant Deputy Chief of Staff for Logistics.
21. Mr. Leroy E. Hoole, Jr., Deputy Director of the Army Budget for Budget Management, Office of the Comptroller of the Army.
22. Mr. Carroll A. Olsen, Deputy Director for Operations and Maintenance, Office of the Comptroller of the Army.

23. Mr. William M. Frailey, Chief, U.S. Army Civilian Personnel Center.

24. Major General Robert L. Kirwan, Commanding General, U.S. Army Operational Test and Evaluation Agency.

25. Mr. Raymond J. Sumser, Director of Civilian Personnel, Office of the Deputy Chief of Staff for Personnel.

26. Brigadier General Edward Honor, Director of Resources Management, Office of the Depty Chief of Staff for Logistics.

27. Brigadier General Kenneth A. Jolemore, Director of Supply and Maintenance, Office of the Depty Chief of Staff for Logistics.

28. Brigadier General John H. Mitchell, Director, Human Resources Development, Office of the Depty Chief of Staff for Personnel.

29. Brigadier General Robert B. Adams, Deputy Commanding General, U.S. Army Finance and Accounting Center.

30. Brigadier General William H. Gourley, Director of Enlisted Personnel Management, U.S. Army Military Personnel Center.

The Members of the Performance Review Board for the U.S. Army Corps of Engineers (COE) are:

1. Major General William R. Wray, Deputy Chief of Engineers.

2. Major General Hugh G. Robinson, Division Engineer, Southwestern Division.

3. Brigadier General Jerome B. Hilmes, Deputy Director for Facilities Engineering, Directorate of Military Programs, Office, Chief of Engineers.

4. Dr. Lewis H. Blakey, Chief, Planning Division, Directorate of Civil Works, Office, Chief of Engineers.

5. Dr. James Choromokos, Jr., Chief, Research and Development, Office, Chief of Engineers.

6. Mr. Ralph Loschialpo, Chief, Office of Personnel, Office, Chief of Engineers.

7. Mr. Richard C. Armstrong, Chief, Engineering Division, Ohio River Division.

8. Mr. William N. McCormick, Jr., Chief, Engineering Division, South Atlantic Division.

9. Mr. Delbert E. Olson, Chief Planning Division, North Pacific Division.

The Members of the Performance Review Board for the U.S. Army Materiel Development and Readiness Command are:

1. Major General William H. Schneider, HQ U.S. Army Materiel Development and Readiness Command.

2. Major General Henry Doctor, Jr., HQ U.S. Army Materiel Development and Readiness Command.

3. Brigadier General Howard C. Whittaker, U.S. Army Armament Research and Development Command.

4. Brigadier General Fred Hissong, Jr., U.S. Army Armament Materiel Readiness Command.

5. Brigadier General William E. Potts, U.S. Army Missile Command.

6. Brigadier General Eugene S. Korpal, HQ U.S. Army Materiel Development and Readiness Command.

7. Dr. Richard L. Haley, HQ U.S. Army Materiel Development and Readiness Command.

8. Mr. Edward Greiner, HQ U.S. Army Materiel Development and Readiness Command.

9. Mr. Richard B. Lewis II, U.S. Army Aviation Research and Development Command.

10. Mr. Billy R. Gilliland, U.S. Army Communications-Electronics Command.

11. Dr. Robert B. Oswald, Jr., U.S. Army Electronics Research and Development Command.

12. Mr. Thomas W. Lovelace, U.S. Army Mobility-Equipment Research and Development Command.

13. Mr. Richard T. Tarnas, U.S. Army Tank-Automotive Command.

14. Mr. Harry J. Peters, U.S. Army Test and Evaluation Command.

15. Mr. Keith A. Myers, U.S. Army Materiel Systems Analysis Activity.

16. Dr. Robert J. Lontz, U.S. Army Research Office.

17. Mr. Donald B. Dinger, U.S. Army Foreign Science and Technology Center.

18. Dr. Robert J. Byrne, U.S. Army Natick Research and Development Laboratories.

19. MG Robert L. Herriford, Jr., HQ U.S. Army Materiel Development and Readiness Command.

20. MG Claude M. Kicklighter, HQ U.S. Army Materiel Development and Readiness Command.

21. Mr. Seymour J. Lober, HQ U.S. Army Materiel Development and Readiness Command.

22. Mr. A. David Mills, HQ U.S. Army Materiel Development and Readiness Command.

The Members of the Performance Review Board for the Office of the Surgeon General are:

1. Major General Quinn H. Becker, M.D., Deputy Surgeon General.

2. Major General George Kuttras, Assistant Surgeon General for Dental Services.

3. Major General Garrison Rapmund, M.D., Commander, U.S. Army Medical Research and Development Command.

4. Major General Enrique Mendez, Jr., M.D., Commander, Walter Reed Army Medical Center.

5. Brigadier General Robert T. Cutting, M.D., Director of Health Care Operations.

6. Brigadier General Frank F. Ledford, M.D., Director of Professional Services.

7. Brigadier General France F. Jordan, Director of Personnel.

8. Brigadier General Hazel W. Johnson, Chief, Army Nurse Corps.

9. Brigadier General Frank A. Ramsey, Assistant Surgeon General for Veterinary Services.

10. Dr. Gunter F. Bahr, M.D., Chairman, Department of Cellular Pathology, Armed Forces Institute of Pathology.

11. Dr. Louis S. Baron, Ph.D., Chief, Department of Bacterial Immunology, Walter Reed Army Institute of Research.

12. Dr. William R. Beisel, M.D., Deputy for Science, U.S. Army Medical Research Institute of Infectious Diseases.

13. Dr. Daniel H. Connor, M.D., Chairman, Department of Infectious and Parasitic Disease Pathology, Armed Forces Institute of Pathology.

14. Dr. Bhupendra P. Doctor, Ph.D., Director, Division of Biochemistry, Walter Reed Army Institute of Research.

15. Dr. Franz M. Enzinger, M.D., Associate Chairman, Center for Advanced Pathology, Armed Forces Institute of Pathology.

16. Dr. Samuel B. Formal, Ph.D., Chief, Department of Bacterial Diseases, Walter Reed Army Institute of Research.

17. Dr. Ralph F. Goldman, Ph.D., Director, Military Ergonomics Laboratory, U.S. Army Institute of Environmental Medicine.

18. Dr. Elson D. Helwig, M.D., Chairman, Department of Skin and Gastrointestinal Pathology, Armed Forces Institute of Pathology.

19. Dr. Nelson S. Irey, M.D., Chairman, Department of Environmental and Drug Induced Pathology, Armed Forces Institute of Pathology.

20. Dr. Kamal G. Ishak, M.D., Chairman, Department of Hepatic Pathology, Armed Forces Institute of Pathology.

21. Dr. Frank B. Johnson, M.D., Chairman, Department of Chemical Pathology, Armed Forces Institute of Pathology.

22. Dr. Karl M. Johnson, M.D., Program Director, Hazardous Viruses, U.S. Army Medical Research Institute of Infectious Diseases.

23. Dr. Arthur D. Mason, Jr., M.D., Chief, Laboratory Division, U.S. Army Institute of Surgical Research.

24. Dr. Fathollah K. Mostofi, M.D., Chairman, Center for Advanced Pathology, Armed Forces Institute of Pathology.

25. Dr. Henry J. Norris, M.D., Chairman, Department of Gynecologic and Breast Pathology, Armed Forces Institute of Pathology.

26. Dr. Howard E. Noyes, Ph.D., Associate Director for Research Management, Walter Reed Army Institute of Research.

27. Dr. James A. Vogel, M.D., Director, Exercise Physiology Division, U.S. Army Institute of Environmental Medicine.

28. Dr. Lorenz E. Zimmerman, M.D., Chairman, Department of Ophthalmic Pathology, Armed Forces Institute of Pathology.

The Members of the Performance Review Board for the Consolidated Commands are:

1. Major General John S. Crosby, Deputy Chief of Staff for Personnel, U.S. Army Forces Command.

2. Major General John B. Blount, Chief of Staff, U.S. Army Training and Doctrine Command.

3. Dr. Wilbur B. Payne, Director, U.S. Army Training and Doctrine Command, Systems Analysis Activity.

4. Brigadier General Archer L. Durham, USAF, Vice Commander, Headquarters Military Traffic Management Command.

5. Mr. Leonard J. Mabius, Technical Director/Chief Engineer, U.S. Army Communications Command.

6. Mr. William S. Fraim, Civilian Personnel Director, U.S. Army Forces Command.

7. Mr. Arthur C. Christman, Jr., Scientific Advisor, Office, Deputy Chief of Staff for Combat Development, U.S. Army Training and Doctrine Command.

8. Dr. Marion R. Bryson, Scientific Advisor, CDC Experimentation Command, U.S. Army Training and Doctrine Command.

9. Major General Benjamin E. Doty, Commanding General, USA TRADOC Combined Arms Test Activity/Deputy Chief of Staff for Test and Evaluation, Training and Doctrine Command.

10. Mr. Phillip G. Hillen, Senior Transportation Advisor, Headquarters, Military Traffic Management Command.

11. Brigadier General William G. O'Leksy, Commander, 1st PERSCOM and AG, USAREUR.

12. Mr. Harry M. West III, Deputy Director of Manpower, Plans and Budget, Office of the Deputy Chief of Staff for Personnel.

13. Mr. Peter Stein, Deputy Administrative Assistant, Office of the Secretary of the Army.

14. Dr. Robert J. Heaston, Weapons Systems Technology Manager, Office of the Deputy Chief of Staff for Research, Development and Acquisition.

15. Mr. Dellon E. Coker, Special Assistant for Communications and Transportation, Office of the Judge Advocate General.

16. Mr. Andrew F. Foreman, Assistant Deputy Chief of Staff, Personnel (Civilian Personnel), United States Army Europe.

17. Major General Clarence E. McKnight, Jr., Commanding General, U.S. Army Communications Command.

18. Mr. Nicholas J. Arbia, Comptroller, U.S. Army Communications Command.

19. Brigadier General John T. Myers, Deputy Commanding General, U.S. Army Communications Command.

John O. Roach II,

Liaison Officer with the Federal Register.

[FR Doc. 82-16771 Filed 6-21-82; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DESI) for a Recreational Navigation Project at Lorain Harbor, Lorain County, Ohio, Under Authority of a Resolution Passed by the Committee on Public Works and Transportation of the House of Representatives on September 23, 1976

AGENCY: U.S. Army Engineer District, Buffalo, DOD.

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

PROPOSED ACTION: The proposed action would involve the construction of an all-weather small-boat harbor with at least a 600-slip capacity inside the east breakwater at Lorain Harbor. Recreational fishing access would be provided.

ALTERNATIVES CONSIDERED: A total of five potential small-boat harbor sites were identified during the site selection phase of the study. These five sites are: Site 1—Inside the East Breakwater; Site 2—East of the Diked Disposal Area; Site 3—Inside the West Breakwater; Site 4—Black River at 21st Street; and Site 5—Beaver Creek. Site 1–Inside the East Breakwater, has proven to be the most acceptable alternative.

Subsequent to this site selection, a total of five preliminary harbor plans, in addition to the No-Action Plan, were developed at Alternative Site No. 1—Inside the East Breakwater.

1. Alternative Plan 1—300 Slips Without Riverside Park Cut—Plan 1 would provide for an all-weather small-boat harbor with a 300-slip capacity. Recreational fishing access would be provided.

2. Alternative Plan 2—600 Slips Without Riverside Park Cut—Plan 2 would provide for an all-weather small-boat harbor with a 600-slip capacity. Recreational fishing access would be provided.

3. Alternative Plan 3—300 Slips Without Riverside Park Cut—Plan 3 would provide for a 300-slip small-boat harbor with an all-weather capability. Recreational fishing access would be provided.

4. Alternative Plan 4—600 Slips With Riverside Park Cut—Plan 4 is identical to Plan 3, except a dry-storage facility has been added to ensure capacity for at least 600 boats.

5. Alternative Plan 5—600 Slips (Detached Breakwater)—Plan 5 would provide for an all-weather recreational harbor with a 600-slip capacity and would be essentially an alteration of Plan 2. Recreational fishing would be provided.

6. Alternative Plan 6—No-Action—This alternative does not provide for recreational navigation improvements at Lorain Harbor.

Public Involvement: Considerable public involvement has been conducted on the Lorain Harbor study to date. An Orientation Workshop was held on November 5, 1980, an Initial Iteration Workshop was conducted on December 10, 1980, and an Alternatives Workshop was held on September 10, 1981. The District will hold a late stage Public Meeting when the DEIS is released for public review.

Issues: Significant issues to be analyzed in the DEIS will include a determination of the extent, in degree and kind, to which the Selected Plan and any reasonable alternatives might positively or negatively impact upon the human and natural environments, to include fish and wildlife habitat areas, plants, water quality, aesthetic quality of the area, cultural resources, and the equitable distribution and stability of income.

Scoping Meeting: No scoping meeting will be held, since extensive coordination has already been conducted. A public meeting, announced by a Public Notice, may be held in the summer of 1983.

Availability: This Draft Environmental Impact Statement will be made available to the public on or about May 31, 1983.

Address: Questions about the proposed action and DEIS can be answered by Ms. Mary Jo A. Braun, U.S. Army Engineer District, 1776 Niagara Street, Buffalo, NY 14207, (716) 876-5454.

Dated: June 15, 1982.

George P. Johnson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-16836 Filed 6-21-82; 8:45 am]

BILLING CODE 3710-GP-M

Department of the Navy

Force Enhancement Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Force Enhancement Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on July 7–8, 1982, from 9 a.m. to 5 p.m. each day, at Naval Submarine Base, New London, Connecticut. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of anti-submarine warfare and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Commander K. M. Cummings, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, VA 22311. Phone (703) 756–1205.

Dated: June 17, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-16861 Filed 6-21-82; 8:45 am]

BILLING CODE 3810-AE-M

Homeporting of Four Additional Knox Class Frigates NETC, Newport, Rhode Island; Public Hearing and Availability of Draft Environmental Impact Statement

Notice is hereby given that a public hearing will be held for the purpose of providing the public with relevant information on the proposed homeporting of four additional Knox class frigates at the Naval Education Training Center, Newport, Rhode Island, and receiving the views of the public on this subject. The public hearing will be held on June 30, 1982, commencing at 8:00 p.m., in the cafetorium of the Middletown High School, Valley Road, Middletown, Rhode Island. The Navy published a Draft Environmental Impact Statement on the subject proposal on June 4, 1982.

The proposed project is the homeporting of four additional Knox class frigates at Pier II, NETC, Newport, Rhode Island. Approximately 2418 personnel and dependents are associated with the proposed project, including personnel assigned to the vessels and personnel assigned to the Shore Intermediate Maintenance Activity in support of homeported ships.

Two frigates are scheduled to arrive in fiscal year 1983; two in fiscal year 1984. All vessels will be "cold-ironed" or "hoteled" while in port. "Cold-iron" involves the shut-down of all shipboard power generation, with the necessary public services provided by on-shore facilities. This effectively reduces ship air emissions and mitigates potentially harmful ship discharges into the Narragansett Bay.

The hearing is being conducted by Commander J. A. Rispoli, CEC, USN, assigned to the staff of the Commanding Officer, Northern Division, Naval Facilities Engineering Command. Commander Rispoli is the Head, Facilities Planning Department, Northern Division, telephone (215) 755–3950. The hearing is informal. It is neither evidential nor judicial in nature, and there will be no cross-examination of witnesses. All persons who give testmony or ask questions are requested to address themselves to the Hearing Officer. Individual speakers are requested to limit their testimony to five minutes each, and organizational spokespersons will have six minutes each to summarize and present their views. Organizations desiring to make a formal presentation in excess of six minutes may do so if specific arrangements have been made with the Hearing Officer in advance. All testimony will be recorded.

Individuals and organizations wishing to submit written statements to be included in the hearing record may either present such statements to the hearing Officer at the hearing, or mail the statements to the Hearing Officer: Commander James A. Rispoli, Northern Division, Naval Facilities Engineering Command, Philadelphia, PA 19112, Telephone: (215) 755–3950.

One copy of the DEIS will be available for public inspection and review at each of the following public libraries and at the Northern Division, Naval Facilities Command:

Portsmouth Free Public Library, Portsmouth, RI

Providence Public Library, Providence, RI 02903

East Providence Public Library, East Providence, RI 02903

Robert Beverly Hale Library, South Kingstown, RI

Essex Public Library, Tiverton, RI

Newport Public Library, Newport, RI

N. Kingston Free Library, North Kingstown, RI

N. Providence Union Free Library, North Providence, RI

Jamestown Philomenian Library, Jamestown, RI

Middleton Free Library, Middletown, RI

Rogers Free Library, Bristol, RI

R.I. Historical Library, Providence, RI 02903

University of Rhode Island Library, S. Kingstown, RI 02881

Dated: June 17, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-16862 Filed 6-21-82; 8:45 am]

BILLING CODE 3810-AE-M

Office of the Secretary

Defense Science Board Task Force on Closely Spaced Basing for M-X: Advisory Committee Meeting

The Defense Science Board Task Force on Closely Spaced Basing for M-X will meet in closed session on 12–16 July 1982 in San Bernardino, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At the meeting on 12–16 July 1982 the Task Force on Closely Spaced Basing for M-X will evaluate the closely-spaced basing mode theory, design, and interaction with various types and levels of threat.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, 1976), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly

these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

June 16, 1982.

[FR Doc. 82-16766 Filed 6-21-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Command Support; Committee Meeting

The Defense Science Board Task Force on Command Support will meet in closed session on 25–26 August 1982 at the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an evaluation of the current technological applications currently employed in the area of command support and will advise upon improvements which appear possible and practical. They will also consider training emphasis and possibilities for improvement in the internal management process.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, 1976), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

June 16, 1982.

[FR Doc. 82-16767 Filed 6-21-82; 8:45 am]

BILLING CODE 3810-01-M

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 USC 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; (7) An estimate of the total number of hours needed to provide the information; (8) To whom comments regarding the information collection are to be forwarded; and (9) The point of contact from whom a copy of the information proposal may be obtained.

Extension (Adjustment in Burden)

Report information collection on-Federal Student Loan Disclosure and Confirmation.

The information collection is necessary to implement the loan repayment segment of the educational assistance test program, authorized by Section 902 of Pub. L. 96–342. This provision authorizes the Secretary of Defense to repay portions of Guaranteed Student Loan (GSL), Federal Insured Loans (FISL), and National Direct Student Loans (NDSL) for eligible active and selective reserve servicemembers. The Services have a legal requirement to make the first disbursements under this program.

Banks, Savings, & Loan Associations, post secondary institutions; 3,000 responses; 1,000 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 may be obtained from Mr. Robert L. Newhart, OASD, MRA&L(PI), Room 3C800, Pentagon, Washington, DC 20301; telephone (202) 605–0643.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 16, 1982.

[FR Doc. 82-16757 Filed 6-21-82; 8:45 am]

BILLING CODE 3810-01-M

Security of Mail in APO/FPO System Overseas

AGENCY: Office of the Secretary (Military Postal Service), DoD.

ACTION: Notice of Extension of Comment Period.

SUMMARY: On April 6, 1982, in 47 FR 14864, the Department of Defense published a proposed policy on security of mail in the APO/FPO system overseas (FR Doc. 82–9172). The notice requested that comments be received by June 7, 1982. As a result of the interest in this policy, the Office of the Secretary, DoD, is extending the comment period to July 16, 1982.

ADDRESSES: Send comments to: General Counsel, Department of the Army, Room 2E729, The Pentagon, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: Thomas C. Wright, Office of the General Counsel, Department of the Army, (202) 695–2253.

June 17, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-16765 Filed 6-21-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Discretionary Grant Programs; Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1983 Applications

Correction

In FR Doc. 82–16260 appearing on page 26108 in the issue of Wednesday, June 16, 1982; second column, in the table, the closing date for CFDA 84.023] Should read "Sept. 15, 1982".

BILLING CODE 1505-01-M

National Advisory Council on Continuing Education; Meeting

Correction

In FR Doc. 82–15464 appearing on page 24770, in the issue for Tuesday, June 8, 1982; third column, Sixth paragraph under supplementary information should read as follows:

"The Council meeting will be held from 2:00 p.m. until 6:30 p.m. on June 23; from 9:00 a.m. until 5:00 p.m. and from 7:00 p.m. until 9:00 p.m. on June 24; and from 9:00 a.m. until 12:00 Noon on June 25, 1982."

BILLING CODE 1505-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued June 16, 1982.

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** OKLAHOMA CORPORATION COMMISSION **********									
-ANDOVER OIL COMPANY				RECEIVED:	05/21/82	JA: OK			
8234496	14395	35.1721845		103		GLOBE LIFE "E" #34-8		180.0	DELHI GAS PIPELIN
8234514	14371	35.4321205		103		JOHNSON #34-1		0.0	EL PASO NATURAL G
-BEARD OIL COMPANY				RECEIVED:	05/21/82	JA: OK			
8234492	142.1	3510920310		103		CHOCTAW #1	CHOCTAW	150.0	OKLAHOMA NATURAL
-BLUE QUAIL ENERGY INC				RECEIVED:	05/21/82	JA: OK			
8234517	14389	35.1700000		103		MCCAULEY #2	NE/4SW/4 SEC 1 T11N R	525.0	CONOCO INC
-CONOCO INC				RECEIVED:	05/21/82	JA: OK			
8234527	14210	35.1922372		103		S E VELMA SIMS UNIT #158	S E VELMA	40.0	AMINOIL USA INC
-COOK OPERATING CO				RECEIVED:	05/21/82	JA: OK			
8234487	13637	3511700000		108		BREWER #14 (WAGNER)	NORTH TERLTON	27.9	H J D CATTLE CO
8234489	13639	3511720343		108		BREWER "B" B-16	NORTH TERLTON	34.2	H J D CATTLE CO
8234490	13640	3511720346		108		BREWER "B" B-19	NORTH TERLTON	42.2	H J D CATTLE CO
8234488	13638	3511720350		108		BREWER B-14	NORTH TERLTON	28.5	H J D CATTLE CO
-DAVID NIXON ENERGY CO INC				RECEIVED:	05/21/82	JA: OK			
8234510	14335	3508321821		103		SNYDER A-1		0.0	EASON OIL CO
-DEAN CLARK				RECEIVED:	05/21/82	JA: OK			
8234501	14412	3511120908		108		BRUNER #1	NATURA (380'FSL & 246	8.3	PHILLIPS PETROLEU
8234500	14407	3511120915		108		COPENHAVER #1	NATURA 1650' FSL & 16	8.7	PHILLIPS PETROLEU
8234499	14406	3511121413		108		COPENHAVER #1-7	NATURA 330' FSL &1485	10.8	PHILLIPS PETROL C
-DYCO PETROLEUM CORPORATION				RECEIVED:	05/21/82	JA: OK			
8234502	14410	3511522026		103		MARGIE #1-27		100.0	EL PASO NATURAL G
-ELIXIR CORP				RECEIVED:	05/21/82	JA: OK			
8234522	13874	3508321426		103		MARTIN #1 08321426	SO MULHALL	10.0	EASON OIL CO
8234523	13875	3508321550		103		TODD #1 08321550	SO MULHALL	55.0	EASON OIL CO
-FLOYD BERGEN				RECEIVED:	05/21/82	JA: OK			
8234504	14416	3512120868		103		BRANNAN #1	BLOCKER	150.0	SE TRANSMISSION &
-FOSSIL OIL & GAS INC				RECEIVED:	05/21/82	JA: OK			
8234529	14229	3504321251		103		SHIFFLETT #1-33	NORTH OAKWOOD	200.0	DELHI GAS PIPELIN
-HAINES OIL CO				RECEIVED:	05/21/82	JA: OK			
8234532	14332	3513722614		103		DOMA #1	SHO VEL TUM	7.0	GETTY OIL CO
8234533	14331	3513722597		103		FOWLER #1	SHOVELTUM	2.0	GETTY OIL CO
8234505	14330	3513722651		103		FOWLER #2	SHO VEL TUM	3.0	GETTY OIL CO
8234509	14423	3513722387		103		SID S SPEARS #10	SHO VEL TUM	3.3	GETTY OIL CO
8234508	14422	3513722388		103		SID S SPEARS #11	SHO VEL TUM	5.5	GETTY OIL CO
8234506	14421	3513722759		103		SID S SPEARS #12	SHO VEL TUM	20.8	GETTY OIL CO
8234507	14420	3513722664		103		SID S SPEARS #13	SHO VEL TUM	6.5	GETTY OIL CO
8234531	14419	3513722215		103		SID S SPEARS #8	SHO VEL TUM	13.6	GETTY OIL CO
-HELMERICH & PAYNE INC				RECEIVED:	05/21/82	JA: OK			
8234484	17159	3512920702		102-2		SAVAGE #1-27	S W HERRING	365.0	MICHIGAN WISCONSI
-HY-CARB ENERGY INC				RECEIVED:	05/21/82	JA: OK			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234486	14392	3508300000		103		BEEN #1	NORTH PEAVINE SECTION	24.0	CHAMPLIN PETROLEU
8234518	14391	3508321634		103		DUNLAP #2	NORTH PEAVINE SECTION	24.0	CHAMPLIN PETROLEU
-INTERNORTH INC				RECEIVED:	05/21/82	JA: OK			
8234495	14394	3512920608		103		CARLTON 26 #1	SOUTHWEST LEEDEY	500.0	NORTHERN NATURAL
-J L BUSBY				RECEIVED:	05/21/82	JA: OK			
8234513	14367	3511121189		108		WRIGHT #1-BW	BALD HILL	15.1	PHILLIPS PETROLEU
-JICO EXPLORATION INC				RECEIVED:	05/21/82	JA: OK			
8234524	14145	3507323119		103		JICO-TOWNER #1	SOONER TREND	1277.5	PHILLIPS PETROLEU
-JOE D DAVIS				RECEIVED:	05/21/82	JA: OK			
8234528	14213	3512120846		103		HALL #1	S PINE HOLLOW	0.0	ARKANSAS LOUISIAN
-L O WARD				RECEIVED:	05/21/82	JA: OK			
8234530	14236	3502720555		103		OKLAHOMA C-16 #3	N W NORMAN	125.0	SUN GAS CO
-L R FRENCH JR				RECEIVED:	05/21/82	JA: OK			
8234494	14393	3509322411		103		VIOLET #2	CHEYENNE VALLEY	237.0	DELHI GAS PIPELIN
-LADD PETROLEUM CORPORATION				RECEIVED:	05/21/82	JA: OK			
8234497	14397	3504321231		103		EVANS #2	HUCMAC	273.8	TRANSOK PIPE LINE
8234498	14398	3505121056		103		MAURER #2	BRADLEY NORTHWEST	533.8	TRANSOK PIPE LINE
-MEWBOURNE OIL COMPANY				RECEIVED:	05/21/82	JA: OK			
8234525	14208	3513920404		103		CARMEN #1	(SPRINGER)	10.0	
-PETRO DAVIS INC				RECEIVED:	05/21/82	JA: OK		0.0	EASON OIL CO
8234521	12661	3508300000		103		CARMA #2			
-PETRO-LEWIS CORPORATION				RECEIVED:	05/21/82	JA: OK			
8234515	14372	3503202190		108		DAVIS 23-1	RINGWOOD	7.3	PARTNERSHIP PROPE
8234516	14373	3503320255		108		JIMMIE 23-1	RINGWOOD	7.3	PARTNERSHIP PROPE
-PORTS OF CALL OIL CO				RECEIVED:	05/21/82	JA: OK			
8234503	14413	3502720436		103		JANUARY #36-1	N W NORMAN	10.0	SUN GAS CO
-PROSPECT DEVELOPMENT CO				RECEIVED:	05/21/82	JA: OK			
8234511	14347	3504722145		103		WEST 2-80	SOONER TREND	55.0	
-RED EAGLE OIL CO				RECEIVED:	05/21/82	JA: OK			
8234493	14203	3509322216		103		ALBERT #1	CHEYENNE VALLEY	405.0	DELHI GAS PIPELIN
-SEARCH DRILLING CO				RECEIVED:	05/21/82	JA: OK			
8234526	14209	3504520976		103		CARNAGEY #1-10	NORTH CHANEY	283.0	AN-SON TRANSPORTA
-SENECA OIL COMPANY				RECEIVED:	05/21/82	JA: OK			
8234519	11544	3501121518		102-4		BAKER #1-11	N CANTON	365.0	PANHANDLE EASTERN
-THE GHK COMPANY				RECEIVED:	05/21/82	JA: OK			
8234485	18623	3510920416		107-DP		THOMPSON 1-22	WEST ELK CITY	205.0	
-THE WIL-MC OIL CORP				RECEIVED:	05/21/82	JA: OK			
8234483	17153	3513722334		102-4		H B O C #102-11	COMANCHE	257.4	
-TRANSIERRA EXPLORATION CORP				RECEIVED:	05/21/82	JA: OK			
8234512	14352	3511321437		103		CHRISTIAN BROS #1	TRANSIERRA-CINNAMON F	15.0	AMINOIL USA INC
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	05/21/82	JA: OK			
8234520	12295	3508321639		103		WALLER #1-31	SOONER TREND	43.8	CONOCO INC
-WOHNLICH OIL CO				RECEIVED:	05/21/82	JA: OK			
8234491	14199	3507322657		103		MOORE 1-1	SOONER TREND	15.0	PHILLIPS PETROLEU

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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

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-ADOBE OIL & GAS CORPORATION				RECEIVED:	05/21/82	JA: PA			
8234535	11425	3706522445		103		HENRIETTA GIBBS "B" #1	MCGEES HILL	25.0	CONSOLIDATED GAS
8234534	11424	3706326507		103		WILLIAM SCHEURING #1	COMMODORE	24.0	
-ASHTOLA PRODUCTION CO				RECEIVED:	05/21/82	JA: PA			
8234536	11431	3705120274		103		J SINAL #1	WALTERSBURG	22.0	
8234537	11432	3705120284		103		W KING #1	WALTERSBURG	22.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ATLAS RESOURCES INC				RECEIVED:	05/21/82	JA: PA			
8234538	11415	3706326333		102-2		SCHROTH #18	GREEN	25.0	COLUMBIA GAS TRAN
-BOYD & SHRIVER				RECEIVED:	05/21/82	JA: PA			
8234542	11400	3706323136		108		KLEIN #437	N MAHONING	0.0	CONSOLIDATED GAS
8234540	2119	3706323196		108		MOTTORN #439	NORTH MAHONING	0.0	CONSOLIDATED GAS
8234539	2116	3706323133		108		PEFFER #435	N MAHONING	0.0	CONSOLIDATED GAS
8234541	2121	3706323214		108		WRIGHT #441	N MAHONING	0.0	CONSOLIDATED GAS
-C & C TROYER BROTHERS				RECEIVED:	05/21/82	JA: PA			
8234608	10906	3704921374		107-TF		T MILLER #1 (#38)	EDINBORO	10.0	NATIONAL FUEL GAS
-CABOT OIL & GAS CORP				RECEIVED:	05/21/82	JA: PA			
8234543	11383	3703921452		102-2		EDWARD HOADLEY #1	FAIRFIELD	50.0	TENNESSEE GAS PIP
8234544	11382	3703921452		107-TF		EDWARD HOADLEY #1	FAIRFIELD	50.0	TENNESSEE GAS PIP
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	05/21/82	JA: PA			
8234547	11423	3706522437		103		A V FRAMPTON WN-1880	MCCALMONT TOWNSHIP	10.0	GENERAL SYSTEM PU
8234546	11422	3706326619		103		G HOLLIDAY WN-1879	BANKS TOWNSHIP	44.6	GENERAL SYSTEM PU
8234545	11421	3712921930		103		HENRY HAWLEY WN-1878	HEMPFIELD TOWNSHIP	51.0	GENERAL SYSTEM PU
-CUMBERLAND OIL CORP				RECEIVED:	05/21/82	JA: PA			
8234548	11831	3712329662		102-3		J RUPCZYK #2	SUGAR GROVE	20.0	NATIONAL FUEL GAS
8234549	11076	3712329662		107-TF		J RUPSZYK #2	SUGAR GROVE	20.0	NATIONAL FUEL GAS
-DOC-NCC SERVICE CO				RECEIVED:	05/21/82	JA: PA			
8234553	11418	3712921918		103		PARK S STONER ESTATE 1522-1	EAST HUNTINGDON	30.0	TEXAS EASTERN TRA
8234554	11419	3712921935		103		R D MILLER & R SHUMAR JR 1592-1	EAST HUNTINGDON	30.0	TEXAS EASTERN TRA
8234552	11417	3712921780		103		THOMAS L BROOKS 1244-1	E HUNTINGDON	30.0	TEXAS EASTERN TRA
-ENVIROGAS INC				RECEIVED:	05/21/82	JA: PA			
8234555	11399	3704921319		107-TF		G KRESS #4A	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
-FAIRMAN DRILLING CO				RECEIVED:	05/21/82	JA: PA			
8234556	11412	3706300000		103		KATHRYN SELL #1 F-3286	ELDER RIDGE	20.0	T W PHILLIPS GAS
8234557	11413	3706326561		103		KATHRYN SELL #2 F-3305	ELDERS RIDGE	20.0	T W PHILLIPS GAS
-FELMONT OIL CORPORATION				RECEIVED:	05/21/82	JA: PA			
8234564	11472	3702120086		102-2		MARTIN L BEARER #1 F-276	DRISCOLL HOLLOW	0.0	
8234559	11467	3702120087		102-2		MARTIN L BEARER #2 F-277	DRISCOLL HOLLOW	0.0	
8234558	11466	3702120089		102-2		MARTIN L BEARER #4 F-279	DRISCOLL HOLLOW	0.0	
8234563	11471	3702120090		102-2		MARTIN L BEARER #5 F-280	DRISCOLL HOLLOW	0.0	
8234560	11468	3702120094		102-2		MARTIN L BEARER #6 F-288	DRISCOLL HOLLOW	0.0	
8234561	11469	3702120091		102-2		MARTIN L BEARER #7 F-289	DRISCOLL HOLLOW	0.0	
8234562	11470	3702120093		102-2		MARTIN L BEARER #8 F-290	DRISCOLL HOLLOW	0.0	
-FOX OIL & GAS INC				RECEIVED:	05/21/82	JA: PA			
8234565	7473	3712920906		108		LULU POOL #3	HEMPFIELD TOWNSHIP	20.5	PEOPLES NATURAL G
-GOE PRO INC				RECEIVED:	05/21/82	JA: PA			
8234579	11460	3704921160		107-TF		ALBION SPORTSMAN CLUB #1	ALBION-WEST	0.0	NATIONAL FUEL GAS
8234578	11459	3704921161		107-TF		ARDEN TEED #1	ALBION	0.0	NATIONAL FUEL GAS
8234567	11449	3704921486		103		CHARLES LUPKA #1	LUNDY'S LANE	0.0	COLUMBIA GAS TRAN
8234569	11448	3704921486		107-TF		CHARLES LUPKA #1	LUNDY'S LANE	0.0	COLUMBIA GAS TRAN
8234573	11454	3704921238		107-TF		GEORGE PAVOLKO #1	ALBION	0.0	COLUMBIA GAS TRAN
8234566	11447	3704921581		103		GORDON WARD #1	UNION CITY	0.0	COLUMBIA GAS TRAN
8234568	11446	3704921581		107-TF		GORDON WARD #1	UNION CITY	0.0	COLUMBIA GAS TRAN
8234577	11458	3704921162		107-TF		HANS K HALLGREN	ALBION-WEST	0.0	NATIONAL FUEL GAS
8234572	11453	3704921020		107-TF		HARRISON #1	NEW IRELAND	0.0	COLUMBIA GAS TRAN
8234581	11462	3704921192		107-TF		J & F MADDEN #1	LUNDY'S LANE	0.0	COLUMBIA GAS TRAN
8234570	11450	3704921243		107-TF		JOSEPH HUYA #1	ELK CREEK	0.0	COLUMBIA GAS TRAN
8234575	11456	3704921127		107-TF		P & G ZARENKO #1	ALBION-EDINBORO	0.0	COLUMBIA GAS TRAN
8234574	11455	3704921188		107-TF		PAUL & G ZARENKO #2	ALBION-EDINBORO	0.0	COLUMBIA GAS TRAN
8234576	11457	3704921128		107-TF		R & J SMITH #1	ALBION - EAST	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234571	11452	3704921295		107-TF		RAYMOND SALLOT #1	ALBION-EAST	0.0	COLUMBIA GAS TRAN
8234580	11461	3704921159		107-TF		W A & T NAGEL	ALBION	0.0	NATIONAL FUEL GAS
-HADDAD & BROOKS INC				RECEIVED:	05/21/82	JA: PA			
8234550	11404	3708520315		103		A KOBOSKY UNIT #1	DEER CREEK	50.0	
8234551	11405	3708520315		107-TF		A KOBOSKY UNIT #1	DEER CREEK	50.0	
-JEAN B KIMMEL				RECEIVED:	05/21/82	JA: PA			
8234582	11395	3700300000		108		KOENIG # 2	(HARRISON TOWNSHIP)	5.6	APOLLO GAS CO
-JEAN O MYERS				RECEIVED:	05/21/82	JA: PA			
8234586	11429	3700520464		108		CHARLES COULTER #1	DIME	2.4	PEOPLES NATURAL G
8234587	11430	3700520393		108		JOSEPH J HUGHES #1	DIME	2.8	PEOPLES NATURAL G
-MERIDIAN EXPLORATION CORP				RECEIVED:	05/21/82	JA: PA			
8234583	11411	3704921471		107-TF		THERASSE UNIT #591-1	EDINBORO NORTH	30.0	NATIONAL FUEL GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:	05/21/82	JA: PA			
8234584	11473	3703921170		103		GALLAHER B #1	CONNEAUTVILLE FIELD -	41.0	COLUMBIA GAS TRAN
8234585	11474	3703921170		107-TF		GALLAHER B #1	CONNEAUTVILLE FIELD -	41.0	COLUMBIA GAS TRAN
-NETTLE HILL OIL & GAS CO				RECEIVED:	05/21/82	JA: PA			
8234588	11403	3705900000		108		B E KIGER	FREEPORT	7.1	PEOPLES NATURAL G
-PEMCO GAS INC				RECEIVED:	05/21/82	JA: PA			
8234603	11331	3700500000		108		ANNIE SCOTT #1	W PA UPPER DEVONIAN S	25.0	APOLLO GAS CO
8234604	11332	3700500000		108		ANNIE SCOTT #2	W PA UPPER DEVONIAN S	25.0	APOLLO GAS CO
8234605	11333	3700500000		108		ANNIE SCOTT #3	W PA UPPER DEVONIAN S	25.0	APOLLO GAS CO
8234594	11312	3700500000		108		DAVID O SLYTER #1	W PA UPPER DEVONIAN S	22.0	APOLLO GAS CO
8234595	11313	3703100000		108		J F BENN #1 (CLARION CO WELLS)	W PA UPPER DEVONIAN S	20.0	APOLLO GAS CO
8234596	11314	3703100000		108		J F BENN #2 (CLARION COUNTY	W PA UPPER DEVONIAN S	20.0	APOLLO GAS CO
8234597	11315	3703100000		108		J F BENN #3 (CLARION COUNTY)	W PA UPPER DEVONIAN S	20.0	APOLLO GAS CO
8234598	11308	3700500000		108		J H ARTMAN #1	W PA UPPER DEVONIAN S	22.0	APOLLO GAS CO
8234601	11329	3700500000		108		J W CLARK #1	W PA UPPER DEVONIAN S	31.0	APOLLO GAS CO
8234602	11330	3700500000		108		JOHN DENNY #1	W PA UPPER DEVONIAN S	46.0	APOLLO GAS CO
8234589	11307	3700520127		108		LLOYD HANKEY #2 ARM 127	W PA UPPER DEVONIAN S	22.0	APOLLO GAS COMPAN
8234591	11309	3700521361		108		O (HAZEL M) LAFFERTY #1 ARM 1361-R	W PA UPPER DEVONIAN S	5.0	APOLLO GAS CO
8234592	11310	3700500000		108		OLIVE LAFFERTY #2	W PA UPPER DEVONIAN S	24.0	APOLLO GAS CO
8234600	11328	3700500000		108		S G BOARTS #1	W PA UPPER DEVONIAN S	13.0	APOLLO GAS CO
8234593	11311	3700500000		108		THOMAS SCHAEFFER #1	W PA UPPER DEVONIAN S	44.0	APOLLO GAS CO
8234598	11316	3703100000		108		W H KELLY #1 (CLARION COUNTY)	W PA UPPER DEVONIAN S	20.0	APOLLO GAS CO
8234599	11317	3703100000		108		W H KELLY #2 (CLARION COUNTY)	W PA UPPER DEVONIAN S	20.0	APOLLO GAS CO
-PHILLIPS PRODUCTION CO				RECEIVED:	05/21/82	JA: PA			
8234606	11420	3706522278		103		ANDREW E GARZONI #1	MC CALMONT	30.0	NATIONAL FUEL GAS
-POI ENERGY INC				RECEIVED:	05/21/82	JA: PA			
8234607	11401	3403321230		107-TF		VULAR #1	SPARTA	25.0	COLUMBIA GAS TRAN
-V G GAS CO				RECEIVED:	05/21/82	JA: PA			
8234610	10703	3706500000		108		HETRICK #1	ALLEGHENY PLATEAU	13.2	NATIONAL FUEL GAS
8234609	10702	3706500000		103		HETRICK #2	ALLEGHENY PLATEAU	13.2	NATIONAL FUEL GAS
**********									
WYOMING OIL & GAS CONSERVATION COMMISSION									
**********									
-AMOCO PRODUCTION CO				RECEIVED:	05/24/82	JA: WY			
8234470	NG 54-82	4903721516		102-2		AM-CHEV-GULF WI #6A (MISSION CANY)	WHITNEY CANYON - MISS	875.0	NATURAL GAS PIPEL
8234472	NG 56-82	4901320753		103		BIG SAND DRAW GAS #18 (MORRISON)	BIG SAND DRAW - MORRI	100.0	KANSAS NEBRASKA N
8234471	NG 55-82	4901320994		103		BIG SAND DRAW OIL UNIT #39 (EMBAR)	BIG SAND DRAW - EMBAR	14.6	NORTHERN UTILITIE
8234467	NG-51-82	4903721453		107-TF		CHAMPLIN 254 AMOCO "C"#1 (MESAVER)	ECHO SPRINGS - MESAVE	438.0	CITIES SERVICE GA
8234478	NG 65-82	4903721749		102-2		CHAMPLIN 452 AMOCO "J" #1 (LEWIS)	SIBERIA RIDGE-LEWIS	33.0	CITIES SERVICE GA
8234480	NG 68-82	4903721749		107-TF		CHAMPLIN 452 AMOCO "J"#1 (MESAVER)	SIBERIA RIDGE - MESAV	65.5	CITIES SERVICE GA
8234458	NG 23-82	4903721258		103		LOST SOLDIER UNIT #109 (MADISON)	LOST SOLDIER - MADISO	10.0	NORTHERN GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234477	NG 64-82	4903721538		103		LOST SOLDIER UNIT #118 (DARWIN)	LOST SOLDIER - DARWIN	7.5	NORTHERN GAS CO
8234482	NG 70-82	4903721538		103		LOST SOLDIER UNIT #118 (MADISON)	LOST SOLDIER - MADISO	7.5	NORTHERN GAS CO
8234473	NG 57-82	4903721428		103		LOST SOLDIER UNIT #131 (TENSLEEP)	LOST SOLDIER - TENSLE	1.5	NORTHERN GAS CO
8234474	NG 58-82	4903721517		103		LOST SOLDIER UNIT #132 (TENSLEEP)	LOST SOLDIER - TENSLE	5.8	NORTHERN GAS CO
8234461	NG 26-82	4903721724		103		LOST SOLDIER UNIT #142 (TENSLEEP)	LOST SOLDIER - TENSLE	8.0	NORTHERN GAS CO
8234460	NG 25-82	4903721818		103		LOST SOLDIER UNIT #152 (MADISON)	LOST SOLDIER - MADISO	10.0	NORTHERN GAS CO
8234476	NG 63-82	4903721722		103		LOST SOLDIER UNIT #154 (MADISON)	LOST SOLDIER - MADISO	1.7	NORTHERN GAS CO
8234459	NG 24-82	4903721725		103		LOST SOLDIER UNIT #158 (MADISON)	LOST SOLDIER - MADISO	4.0	NORTHERN GAS CO
8234469	NG 53-82	4904120158		102-2		RYCKMAN CREEK UNIT #18 (ANKAREH)	RYCKMAN CREEK-ANKAREH	271.0	MOUNTAIN FUEL SUP
8234468	NG 52-82	4904120158		102-2		RYCKMAN CREEK UNIT #18 (THAYNES)	RYCKMAN CREEK-THAYNES	271.0	MOUNTAIN FUEL SUP
8234481	NG 69-82	4904120317		102-2		RYCKMAN CREEK UNIT #30	RYCKMAN CREEK - NUGGE	210.0	NORTHWEST PIPELIN
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: WY			
8234466	NG 43-82	4904120155		102-4		PAINTER RESERVOIR UNIT #33-318	PAINTER RESERVOIR	1022.0	NORTHERN NATURAL
-MONSANTO COMPANY				RECEIVED:	05/24/82	JA: WY			
8234462	NG 28-82	4901321127		107-DP		MONSANTO LONG BUTTE UNIT #5	CODY (LONG BUTTE UNIT	1145.0	MICHIGAN-WISCONSI
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/24/82	JA: WY			
8234479	NG 67-82	4900525994		102-2		MATHESON C #1	SCHOOL CREEK FIELD	0.0	PANHANDLE EASTERN
-TERRA RESOURCES INC				RECEIVED:	05/24/82	JA: WY			
8234475	NG 59-82	4900921260		108		REESE 26-3	FLAT TOP	20.0	KANSAS NEBRASKA G
-WOODS PETROLEUM CORPORATION				RECEIVED:	05/24/82	JA: WY			
8234463	NG 34-82	4900525404		103		PINE TREE UNIT 17-8	PINE TREE	21.0	WESTERN GAS PROCE
8234464	NG 35-82	4900525780		103		PINE TREE UNIT 32-23	PINE TREE	0.0	WESTERN GAS PROCE
8234465	NG 41-82	4900525877		103		PINE TREE UNIT 7-25	PINE TREE	87.0	WESTERN GAS PROCE

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 7, 1982.

Categories within each NGPA section are indicated by the following codes: Section:

102–1 New OCS lease
102–2 New well (2.5 mile rule)
102–3 New well (1,000 ft. rule)
102–4 New onshore reservior
102–5 New reservoir on old OCS lease
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
108 Stripper well
108–SA Seasonally affected
108–ER Enhanced recovery
108–PB Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16825 Filed 6-21-82: 8:45 am]
BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued June 16, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ADAMS EXPLORATION CO			RECEIVED:	05/27/82	JA: TX				
8234945	F-08-051253	4217331259	103			POGO GRIGSBY #2	CONGER (PENN)	53.0	PHILLIPS PETROLEU
-AMAX PETROLEUM CORPORATION			RECEIVED:	05/27/82	JA: TX				
8234832	F-03-049960	4215731275	102-2			J W FARRIS #1	KATY S (FIRST WILCOX)	1300.0	HOUSTON PIPE LINE
-AMERADA HESS CORPORATION			RECEIVED:	05/27/82	JA: TX				
8234762	F-06-048184	4221332052	102-4			WIER GAS UNIT #1	EUSTACE SMACKOVER	365.0	LONE STAR GAS CO
-AMERICAN PETROFINA COMPANY OF TEXAS			RECEIVED:	05/27/82	JA: TX				
8234716	F-06-045534	4242330480	103	107-TF		VERNON WILSON G U #1 #1	OVERTON (COTTON VALLE	200.0	UNITED GAS PIPE L
-AMMEX PETROLEUM INC			RECEIVED:	05/27/82	JA: TX				
8234820	F-03-049822	4214931204	102-2	103		PAULETTE UNIT #1	GIDDINGS (AUSTIN CHAL	972.0	CLAJON GAS CO
-AMOCO PRODUCTION CO			RECEIVED:	05/27/82	JA: TX				
8234897	F-02-051086	4217530573	103			L W O'CONNOR EST "A" #64	LIVE OAK LAKE /4060/	124.1	AMOCO GAS CO
8234793	F-08-049473	4200332919	103			MIDLAND FARMS UNIT #555	MIDLAND FARMS	5.5	AMOCO PRODUCTION
-ANDERSON PETROLEUM INC			RECEIVED:	05/27/82	JA: TX				
8234737	F-7C-046802	4210531083	108			J S PIERCE 3-3	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8234691	F-7B-044461	4210533498	103	107-TF		JOHN MITCHELL ESTATE "A" 2-55	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
8234685	F-7C-044243	4210533654	103	107-TF		JOHN MITCHELL ESTATE "A" 3-55	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
-ANDOVER OIL COMPANY			RECEIVED:	05/27/82	JA: TX				
8234615	F-04-033871	4235531644	103			DUNN MEANY #1-U	SAXET 2700' MIOCENE	40.0	UNITED GAS PIPELI
-APC OPERATING PARTNERSHIP			RECEIVED:	05/27/82	JA: TX				
8234759	F-09-048072	4249732217	103			WHITAKER #1	EANES CONGLOMERATE	150.0	LONE STAR GAS CO
-ARCO OIL AND GAS COMPANY			RECEIVED:	05/27/82	JA: TX				
8234883	F-08-050999	4237133395	103			ELIZABETH REED #2	ATHEY (WOLFCAMP 10,90	36.0	DELHI OIL CORP
8234854	F-08-050226	4213533802	103			GOLDSMITH CUMMINS (SA) UNIT #230	GOLDSMITH (SAN ANDRES	0.4	PHILLIPS PETROLEU
8234915	F-7C-051107	4246131749	103			V J POWELL "17" #1	PEGASUS (SPRABERRY) A	25.0	PHILLIPS PETROLEU
-AUSTEX ENERGY CO INC			RECEIVED:	05/27/82	JA: TX				
8234710	F-7B-045261	4236332730	102-4			J H & H W MCCLURE #1	MCCLURE (CONGL)	67.0	SOUTHWESTERN GAS
-B & M OPERATING CO INC			RECEIVED:	05/27/82	JA: TX				
8234803	F-03-049701	4248132276	103			KOCIAN #1 ID# NEW	SPANISH CAMP SOUTH (4	145.0	HOUSTON PIPE LINE
-B J GIERHART INC			RECEIVED:	05/27/82	JA: TX				
8234660	F-03-043026	4205100000	102-2			DUNCAN #6	GIDDINGS (AUSTIN CHAL	210.0	CLAJON GAS CO
-B P ENERGY CO			RECEIVED:	05/27/82	JA: TX				
8234646	F-7B-041944	4204932688	103			N A GOLSON #1	BROWN COUNTY REGULAR	85.0	HARBIN GAS GATHER
-BETTIS BOYLE & STOVALL			RECEIVED:	05/27/82	JA: TX				
8234946	F-04-051255	4241931594	103			R H WELDER #1	CALLABOOSE WEST (3800	225.0	TENNESSEE GAS PIP
-BILL FORNEY INC			RECEIVED:	05/27/82	JA: TX				
8234686	F-02-044284	4229732612	102-4	103		BILL MOORE #1 RRC ID #06165	HOUDMAN (PETTUS)	13.0	TRANSCONTINENTAL
8234688	F-02-044286	4229731876	102-4	103		ERWIN HOLLE #1 RRC ID #05849	HOUDMAN (HOCKLEY)	0.8	TRANSCONTINENTAL
8234687	F-02-044285	4229731875	102-4	103		ERWIN HOLLE #2 RRC ID #05850	HOUDMAN (PETTUS "C")	7.0	TRANSCONTINENTAL
8234748	F-02-047711	4229732513	102-4			HINES GAS UNIT RRC #(N/A)	CHARLINE (FORNEY)	700.0	TRANSCONTINENTAL
-BLOCKER EXPLORATION CO			RECEIVED:	05/27/82	JA: TX				

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234719	F-04-045655	4235531690		103		EARL DUNN SR #1	SAXET (6800*)	110.0	HOUSTON PIPELINE
-BOB WALLACE OIL INC				RECEIVED:	05/27/82	JA: TX			
8234936	F-10-051175	4206531094		103		CULBERTSON (04944) #5-6	PANHANDLE CARSON COUN	139.0	CABOT PIPELINE CO
-C. J. WOFFORD				RECEIVED:	05/27/82	JA: TX			
8234632	F-02-043819	4217531178		102-4		J W RAY JR #1 RRC ID #82409	J W RAY (2000)	84.0	TRANSCONTINENTAL
-CA-TEX PETROLEUM INC				RECEIVED:	05/27/82	JA: TX			
8234876	F-09-050734	4230936039		102-2		MARSHALL "A" #1	ARCHER COUNTY REGULAR	0.0	MID STATES GAS CO
-CAMBRIDGE & NAIL				RECEIVED:	05/27/82	JA: TX			
8234690	F-10-044378	4248300000		102-4		FINSTERWALD #1 ID NO	BRISCOE (MORROW)	0.0	NORTHERN NATURAL
8234695	F-10-044675	4235731095		103		TAYLOR #1	PARSELL (MORROW UPPER	0.0	DIAMOND SHAMROCK
-CARTER ENERGY CORP				RECEIVED:	05/27/82	JA: TX			
8234823	F-09-049879	4249732280		103		J V HAMPTON #2-A	BOONSVILLE (BEND CONG	110.0	LONE STAR GAS CO
-CASHCO OIL CO				RECEIVED:	05/27/82	JA: TX			
8234613	F-03-033096	4218530253		102-2		JOHNSON #11	HILL (GEORGETOWN)	0.0	LONE STAR GAS CO
-CDE EXPLORATION CO				RECEIVED:	05/27/82	JA: TX			
8234867	F-03-050369	4215731256		102-4		BULS ESTATE #1 ID#	RABB (YEGUA 7400* Y-1	182.5	HOUSTON PIPE LINE
-CHASE PRODUCTION CO				RECEIVED:	05/27/82	JA: TX			
8234917	F-10-051111	4217900000		103		A COMBS #5 RRC-00460	PANHANDLE	12.0	PHILLIPS PETROLEU
8234895	F-10-051073	4217900000		103		A COMBS 139 #6 RRC-00460	PANHANDLE	12.0	PHILLIPS PETROLEU
8234894	F-10-051072	4217900000		103		A COMBS 139 #7 RRC-00460	PANHANDLE	12.0	PHILLIPS PETROLEU
8234893	F-10-051071	4217900000		103		RILEY A #5 RRC-00561	PANHANDLE	1.0	PHILLIPS PETROLEU
-CHESTER R UPHAM JR				RECEIVED:	05/27/82	JA: TX			
8234627	F-7B-040200	4236300000		102-4		HERMAN CARR EST #1	ARTEBURN (CONGL) FIEL	0.0	
8234628	F-7B-040204	4236300000		103		J C CALABRIA EST #1	PALO PINTO CO REG FIE	0.0	
-CHEVRON U S A INC				RECEIVED:	05/27/82	JA: TX			
8234896	F-04-051074	4250531359		103	107-TF	J E BRIONES #2	LAREDO (LOBO)	73.0	
8234797	F-7C-049583	4241331177		103		NEVA WEST #208	NEVA WEST	0.0	ARCO OIL & GAS CO
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	05/27/82	JA: TX			
8234879	F-09-050924	4223734052		102-4		BETTY ALLEN #1	RUSMAG SE (CONGL 4900	0.0	LONE STAR GAS CO
-CITIES SERVICE COMPANY				RECEIVED:	05/27/82	JA: TX			
8234767	F-03-048798	4208931266		102-2		KOEHN "C" #1	DUBINA SOUTH (9080*)	282.0	UNITED GAS PIPE L
-COBRA OIL AND GAS CORPORATION				RECEIVED:	05/27/82	JA: TX			
*8234892	F-09-051057	4207732087		103		W I HOLT "AB" #3-C-S (RRC #19427)	JOY N W (MARBLE FALLS	27.0	SANFORD P FAGADAU
*8234891	F-09-051054	4207732264		103		W W JONES #1 (RRC LEASE #21601)	VERA STRAWN	1.5	SANFORD P FAGADAU
-CONOCO INC				RECEIVED:	05/27/82	JA: TX			
8234913	F-7B-051103	4226900000		108		ALMA H ORSBORN #15 ID #02841	KATZ/5100/	0.6	CITIES SERVICE CO
8234906	F-7B-051096	4226900000		108		ALMA H ORSBORN #2 ID #02841	KATZ /5100/	0.6	CITIES SERVICE CO
8234912	F-08-051102	4210900000		108		FORD-GERALDINE UNIT #204 ID #21021	GERALDINE FORD	0.4	EL PASO NATURAL G
8234911	F-08-051101	4238900000		108		FORD-GERALDINE UNIT #301 ID #21021	GERALDINE FORD	0.9	EL PASO NATURAL G
8234907	F-0A-051097	4213500000		108		KLOH B-17 #1 ID #19828	TXL (SAN ANDRES)	2.0	SHELL OIL CO
8234905	F-7B-051095	4213500000		108		L E WIGHT B-21 #4 ID #25419	COWDEN NORTH	0.1	AMOCO PRODUCTION
8234736	F-01-046696	4232331823		103		N J CHITTIM #1802	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8234819	F-04-049818	4242700000		108		T B SLICK EST A-221 #152	RINCON (FRIO B)	17.0	TENNESSEE GAS PIP
8234914	F-09-051104	4248500000		108		T J & J L WAGGONER #42 ID #18376	WICHITA COUNTY REGULA	0.0	EAGLE PETROLEUM C
8234904	F-08-051094	4213500000		108		TXL 44-43 #2 ID #16192	LAWSON (SAN ANDRES)	1.4	PHILLIPS PETROLEU
8234908	F-7C-051098	4238300000		108		UNIVERSITY #93 ID #04307	BIG LAKE (SPRABERRY)	1.7	DORCHESTER GAS PR
8234910	F-08-051100	4208300000		108		W H BONER-A#18 ID #01663	FUHRMAN-MASCHO	0.1	PHILLIPS PETROLEU
8234909	F-7B-051099	4243300000		108		WEST FLOWERS UNIT #42 ID #11787	FLOWERS WEST (CANYON	0.4	CITIES SERVICE CO
-COOK EXPLORATION CO				RECEIVED:	05/27/82	JA: TX			
8234674	F-06-043909	4218300000		103		CULPEPPER #4	WILLOW SPRINGS - MACK	360.0	ARKANSAS LOUISIAN
8234735	F-06-046685	4218300000		103		FLEWELLEN #4	WILLOW SPRINGS - MACK	0.0	ARKANSAS LOUISIAN
-CPC EXPLORATION INC				RECEIVED:	05/27/82	JA: TX			
8234663	F-03-043221	4205131765		102-4		ORSAG-SCHUBERT UNIT LEASE NO 14610	CALDWELL (AUSTIN CHAL	100.0	FERGUSON CROSSING

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-D H BRAMAN JR				RECEIVED:	05/27/82	JA: TX			
8234849	F-04-050180	4224931445		102-4	103	MAURIO GARCIA #1	BRAMAN (8150)	400.0	VALERO TRANSMISSI
-DALECO RESOURCES				RECEIVED:	05/27/82	JA: TX			
8234709	F-03-044930	4205100000		102-4		JESSE MOORE #3	CLAY NE (EDWARDS REEF	0.0	CLAJON GAS CO
-DAN J III & BRUCE F HARRISON				RECEIVED:	05/27/82	JA: TX			
8234693	F-03-044815	4215731225		102-4	103	DAN J III & BRUCE F HARRISON FEE #1	MCCRARY (3RD YEGUA)	0.0	HOUSTON PIPELINE
-DELTA OIL & GAS CO				RECEIVED:	05/27/82	JA: TX			
8234802	F-7B-049672	4242900000		108		SARAH ELLIS "C" RRC #92435	STEPHENS COUNTY REGUL	9.5	WARREN PETROLEUM
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	05/27/82	JA: TX			
8234754	F-10-047978	4221131341		103		CHARLES H WRIGHT "A" #4-150	CANADIAN SE	134.0	NORTHERN NATURAL
8234795	F-10-049489	4221131367		103		DAN B HOOVER "A" #4	CANADIAN SE	0.0	
8234772	F-10-048953	4221131394		103		HILDENBRAND #3	CANADIAN SE	227.0	NORTHERN NATURAL
-DORCHESTER EXPLORATION INC				RECEIVED:	05/27/82	JA: TX			
8234869	F-08-050399	4243130816		108		TERRY 15	CONGER (PENN)	2.6	ESPERANZA PIPELIN
8234858	F-08-050330	4243130804		108		TERRY 18		7.3	ESPERANZA PIPELIN
8234868	F-08-050398	4243130750		108		WESTBROOK 21	CONGER (PENN)	8.9	ESPERANZA PIPELIN
-DUNIGAN OPERATING CO INC				RECEIVED:	05/27/82	JA: TX			
8234623	F-10-039698	4242100000		103		MOSS #1	TEXAS HUGOTON	54.0	DIAMOND SHAROCK C
-DYNAMIC PRODUCTION INC				RECEIVED:	05/27/82	JA: TX			
8234755	F-7B-048023	4236732140		102-4		WALDEN UNIT #1	GARNER (3000)	0.0	NATURAL GAS PIPE
-E T S ENTERPRISES INC				RECEIVED:	05/27/82	JA: TX			
8234664	F-10-043248	4221131332		102-4		C W BARKER #2	BRISCOE (MORROW)	800.0	EL PASO NATURAL G
-ECHO PRODUCTION INC				RECEIVED:	05/27/82	JA: TX			
8234761	F-01-048128	4216300000		103		RAMOS #1	PEARSALL (AUSTIN CHAL	365.0	TIPPERARY OIL & G
8234836	F-09-050066	4250300000		103		WADE #1	BAYEX (CONGL)	73.0	SOUTHWESTERN GAS
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/27/82	JA: TX			
8234877	F-10-050846	4208726118		108		KNOLL A #1	PANHANDLE EAST	19.0	EL PASO NATURAL G
-ENERGY-AGRI PRODUCTS INC				RECEIVED:	05/27/82	JA: TX			
8234882	F-10-050969	4206500000		103		HENRY #4 (ID#04912)	PANHANDLE CARSON	110.0	
-ERSO INC				RECEIVED:	05/27/82	JA: TX			
8234622	F-06-039531	4236500000		103	107-TF	CARTHAGE GAS UNIT #40	CARTHAGE (COTTON VALL	365.0	TENNESSEE GAS PIP
8234829	F-06-049942	4236500000		103	107-TF	CARTHAGE GAS UNIT #43	CARTHAGE (COTTON VALL	365.0	TENNESSEE GAS PIP
-EVERGREEN OIL CORP				RECEIVED:	05/27/82	JA: TX			
8234672	F-01-043861	4217700000		102-2	103	J W TALLEY #1	NIXON SE (AUSTIN CHAL	0.0	TIPPERARY CORP
-EXCELSIOR OIL CORP				RECEIVED:	05/27/82	JA: TX			
8234636	F-06-041059	4231500000		103		FRED BRAMLETT #1	RODESSA (COTTON VALLE	200.0	TEXAS EASTERN TRA
-EXXON CORPORATION				RECEIVED:	05/27/82	JA: TX			
8234692	F-03-044570	4205131212		102-2		BILLIE EHLERT #1	GIDDINGS (AUSTIN CHAL	20.0	FERGUSON CROSSING
*8234787	F-03-049344	4245733318		103		EAST TEXAS OIL CO FEE "G" #7	HICKSBAUGH (WILCOX 5)	25.5	ARMCO STEEL CORP
8234931	F-03-051166	4207131169		103		GALVESTON BAY STATE "A" #178	RED FISH REEF (FRIO 2	100.0	HOUSTON PIPELINE
8234932	F-03-051167	4224531432		103		J A DISHMAN "E" #4	AMELIA (FRIO 6)	3.4	HOUSTON PIPELINE
8234778	F-08-049045	4210331881		103		J B TUBB A/C 1 #148	SAND HILLS (JUDKINS)	73.0	ODESSA NATURAL GA
8234784	F-08-049284	4210332672		103		J B TUBB A/C 1 #250L	SAND HILLS	148.0	EL PASO NATURAL G
*8234775	F-03-048982	4214930584		102-2		MICKIE HELMCAMP #1	GIDDINGS (AUSTIN CHAL	10.0	ARMCO STEEL CORP
8234833	F-04-049962	4226130657		103		MRS S K EAST "B" 33 (097149)	SARITA EAST (FRIO)	175.0	NATURAL GAS PIPEL
*8234866	F-04-050354	4204730696		103		RJK JR TR BARROSA PAST 18-F(96526)	PITA N W (F-58)	365.0	ARMCO STEEL CORP
8234815	F-08-049795	4222732568		102-4		S WALDRON #1	MOORE DEEP - FSLM	29.0	
-FAGIN PRODUCTION CORP				RECEIVED:	05/27/82	JA: TX			
8234645	F-09-041756	4223733058		103		PTC CAWYER #1	JACK COUNTY REGULAR	170.0	SOUTHWESTERN GAS
-FARRINGTON ENERGY INC				RECEIVED:	05/27/82	JA: TX			
8234814	F-06-049788	4249931032		102-4	103	ANNIE THOMAS #1 PERMIT NO 135002	QUITMAN (Q5 SW)	12.0	CRA INC
-FLAG-REDFERN OIL CO				RECEIVED:	05/27/82	JA: TX			
8234944	F-08-051241	4247532415		103		STAYTON #3 #26149	RHODA WALKER (CANYON	38.6	UNITED TEXAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
				RECEIVED:	05/27/82	JA: TX
-FROST OIL CO INC						
8234873	F-06-050715	4245900000		107-TF		H J TRAMMELL GAS UNIT #2
				RECEIVED:	05/27/82	JA: TX
-GARY BUTCHER						
8234880	F-78-050928	4204932896		102-4		ROWLAND WINN #4 (17274)
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	05/27/82	JA: TX
8234714	F-02-045488	4217531483		103		S H REED #3
				RECEIVED:	05/27/82	JA: TX
-GENERAL PRODUCTION CORP						
8234847	F-03-050152	4205132019		103		ROBINSON-MARTIN #1
				RECEIVED:	05/27/82	JA: TX
-GETTY OIL COMPANY						
8234699	F-03-044733	4205100000		102-2		ADA GIESENSCHLAG #1
8234696	F-03-044699	4205100000		102-2		C M BLACK #1
8234697	F-03-044700	4205100000		102-2		D A SAUNDERS #1
8234792	F-78-049454	4243331280		103		FLOWERS CANYON SAND UNIT #200
8234698	F-03-044701	4205100000		102-2		LYDIA RUBACH #1
8234652	F-08-042455	4237133302		103		P T HUD GINS #1
8234865	F-08-050350	4247532402		103		W D JOHNSON #1-P
8234700	F-03-044736	4205100000		102-2		W E PRIHODA #1
				RECEIVED:	05/27/82	JA: TX
-GOLDSTON OIL CORP						
8234827	F-03-049911	4248132251		103		EARL POOLE #1
				RECEIVED:	05/27/82	JA: TX
-GORDON T WEST JR & STAN RUGELEY						
8234862	F-78-050342	4244732048		102-4	103	BROWN RANCH #1 (15858)
8234861	F-78-050341	4244732054		102-4	103	BROWN-DAVIS UNIT #1 (15857)
8234860	F-78-050340	4244732675		102-4	103	BROWN-DAVIS UNIT #2 (17322)
				RECEIVED:	05/27/82	JA: TX
-GRACE PETROLEUM CORPORATION						
8234624	F-05-040107	4228900000		102-4	107-TF	SAMET GAS UNIT #1
8234647	F-7C-041961	4241330933		103		TUCKER #6
				RECEIVED:	05/27/82	JA: TX
-GULF ENERGY PRODUCING COMPANY						
*8234616	F-04-037127	4250531235		102-4		LOPEZ #1-A (RRC ID #93461)
				RECEIVED:	05/27/82	JA: TX
-GULF OIL CORPORATION						
8234924	F-08-051134	4213533836		103		C A GOLDSMITH #1362
8234937	F-08-051188	4247532087		103		HUTCHINGS STOCK ASSN #1092
8234644	F-09-041569	4218130636		102-4		J HALLIBURTON #1
8234657	F-05-042791	4228930416		102-4	107-TF	R A KUSSY UNIT #1
8234738	F-09-046933	4218130822		102-4		ROBERT J TATE #1
8234889	F-08-051051	4237133214		103		USM OIL CO #4
8234900	F-08-051089	4210332739		103		WEEKLEY W/F #124
8234899	F-08-051088	4210332736		103		WEEKLEY W/F #221
8234901	F-08-051090	4210332737		103		WEEKLEY W/F #224
8234902	F-08-051091	4210332738		103		WEEKLEY W/F #228
				RECEIVED:	05/27/82	JA: TX
-H C W EXPLORATION INC						
8234740	F-08-047029	4210332703		103		ABELL DEVONIAN UNIT #31
				RECEIVED:	05/27/82	JA: TX
-H E WINEGEART						
8234760	F-10-048089	4217900000		108		MCCRACKEN (26585) #1
				RECEIVED:	05/27/82	JA: TX
-HAILEY ENERGY						
8234887	F-78-051029	4213332000		103		A M BUTLER "EF" #1 (16763)
8234886	F-78-051028	4213332438		102-4		MASSENGILL #1 (94275)
				RECEIVED:	05/27/82	JA: TX
-HAMILTON BROTHERS OIL CO						
8234717	F-03-045575	4217730965		102-2		MANFORD #1
				RECEIVED:	05/27/82	JA: TX
-HAMMAN OIL & REFINING CO						
8234649	F-03-041996	4220131263		102-4		GEORGE BAKER #1 (ID# N/A)
8234768	F-03-048889	4221131246		102-4		LONGENBAUGH #5
				RECEIVED:	05/27/82	JA: TX
-HENRY ENERGY CORP						
8234799	F-78-049659	4236700000		102-4		DOUGLASS #1

FIELD NAME	PROD	PURCHASER
GILMER	0.0	ARKANSAS LOUISIAN
GROSEVENOR SW (DUFFER	31.0	ODESSA NATURAL CO
CABEZA CREEK SOUTH (C	250.0	
INEZ JAMESON (NAVARRO	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
FLOWERS (CANYON SAND)	2.0	CITIES SERVICE CO
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
OATES S W (MONTOYA)	1214.0	INTRATEX GAS CO
ESTES BLOCK 34 (PENN)	68.0	CABOT CORP
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
LISSIE (WILCOX 9600)	547.0	TENNESSEE GAS PIP
RUST CREEK (MISS)	25.0	LONE STAR GAS CO
KINGS CREEK (MISS)	25.0	LONE STAR GAS CO
KINGS CREEK (CADDO)	70.0	LONE STAR GAS CO
BEARGRASS	0.0	DELHI GAS PIPELIN
TOENAIL	450.0	ARCO OIL & GAS CO
ALEJANDRENAS (WILCOX	0.0	DELHI GAS PIPELIN
LAWSON (SAN ANDRES)	1825.0	PHILLIPS PETROLEU
WARD-ESTES NORTH	25.0	CABOT CORP
N E SOUTHMAYD	14.0	LONE STAR GAS CO
MARQUEZ (BOSSIER SAND	700.0	DELHI GAS PIPELIN
N E SOUTHMAYD	14.0	LONE STAR GAS CO
USM (QUEEN)	69.0	NORTHERN NATURAL
DUNE	3.0	PHILLIPS PETROLEU
DUNE	4.0	PHILLIPS PETROLEU
DUNE	3.5	PHILLIPS PETROLEU
DUNE	7.0	PHILLIPS PETROLEU
ABELL (DEVONIAN)	18.3	NORTHERN GAS PROD
EAST PANHANDLE	4.0	COLTEXO CORP
EASTLAND COUNTY REGUL	15.0	ODESSA NATURAL CO
LOYCE (STRAWN)	2.0	LONE STAR GAS CO
COST (AUSTIN CHALK)	0.0	VALERO TRANSMISSI
CYPRESS (COCKFIELD A)	639.0	TENNESSEE GAS PIP
CYPRESS (COCKFIELD A)	1500.0	TENNESSEE GAS PIP
DOUGLASS (BIG SALINE)	165.0	SOUTHWESTERN GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HENRY PETROLEUM CORP				RECEIVED: 05/27/82 JA: TX					
8234640	F-01-041376	4249300000		102-2		LYSSY UNIT #1	PRUSKE (BUDA)	0.0	
-HIGH CHAPPARAL OIL CO				RECEIVED: 05/27/82 JA: TX					
8234789	F-03-049403	4247330337		102-4		COWAN-ZOLLMAN-HIGH CHAPP #4-098020	COROLLA (YEGUA 4534)	360.0	LONE STAR GAS CO
-HILLIARD OIL & GAS INC				RECEIVED: 05/27/82 JA: TX					
8234731	F-06-046490	4206730342		102-4		HAWKINS-ROSS #1	KILDARE SMACKOVER DOL	390.0	TEXAS EASTERN TRA
-HNG OIL COMPANY				RECEIVED: 05/27/82 JA: TX					
8234777	F-7C-048997	4243500000		103	107-TF	JONES "118" #5	SAWYER (CANYON)	0.0	INTRATEX GAS CO
8234665	F-7C-043253	4243532525		103		MAYFIELD "46" #4	SAWYER (LEONARD)	227.0	INTRATEX GAS CO
8234746	F-08-047681	4247532341		103	107-TF	PERKINS "200" #1	BURKHOLDER (FUSSELLMA	0.0	INTRATEX GAS CO
8234825	F-7C-049883	4243500000		103	107-TF	SAWYER "128" #5	SAWYER (CANYON)	0.0	INTRATEX GAS CO
8234826	F-7C-049884	4243500000		103	107-TF	SAWYER "144" #3	SAWYER (CANYON)	0.0	INTRATEX GAS CO
8234824	F-7C-049882	4243500000		103	107-TF	SAWYER "168" #4	SAWYER (CANYON)	0.0	INTRATEX GAS CO
-HODGES & RISTER				RECEIVED: 05/27/82 JA: TX					
8234864	F-7B-050349	4213331463		103		HITTSON "C" #5	LEE RAY (RANGER)	74.0	LONE STAR GAS CO
-HOMABY BAY PETROLEUM CORP				RECEIVED: 05/27/82 JA: TX					
8234874	F-04-050726	4250531311		103	107-TF	FALCON GAS UNIT #1 (ALONZO RAMIREZ)	FALCON (WILCOX LOBO 8	108.0	TEXCOL GAS SERVIC
8234875	F-04-050727	4250531338		103	107-TF	FALCON GAS UNIT #2 (DAN YZAQUIRRE)	FALCON (WILCOX LOBO 9	136.8	TEXCOL GAS SERVIC
-HOUSTON OIL & MINERALS CORPORATION				RECEIVED: 05/27/82 JA: TX					
8234821	F-7C-049874	4243532566		102-4		ALLISON #1	J D SLADE (MISS)	150.0	
8234651	F-04-042390	4224730844		102-2		W A JAUER #1	TECOLOTE RANCH (7300'	250.0	VALERO INTERSTATE
-HUFO OILS				RECEIVED: 05/27/82 JA: TX					
8234838	F-10-050083	4206530814		103		BURNETT-25 #10	PANHANDLE CARSON COUN	0.0	PANHANDLE EASTERN
-HUFO PRODUCTION CORP				RECEIVED: 05/27/82 JA: TX					
8234788	F-10-049353	4234130633		102-4		BRENT 66-1	BRENT (GRANITE WASH)	105.6	PANHANDLE EASTERN
-HUMBLE EXPLORATION CO INC				RECEIVED: 05/27/82 JA: TX					
8234703	F-03-044842	4228700000		102-2	103	MILDRED WEEKS #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8234702	F-03-044839	4228700000		102-2	103	PERSEPHONE #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8234621	F-03-038981	4228730874		102-4		SYPERT LOVEJOY #1 - 93891	GIDDINGS (AUSTIN CHAL	598.2	PHILLIPS PETROLEU
-HURLEY PETROLEUM CORPORATION				RECEIVED: 05/27/82 JA: TX					
8234659	F-06-042862	4236531168		103	107-TF	VERA BLACK UNIT #2	BETHANY (COTTON VALLE	180.0	TENNESSEE GAS PIP
-INDIAN WELLS OIL CO				RECEIVED: 05/27/82 JA: TX					
8234781	F-7C-049165	4223531830		102-2		MCMANUS #28-1	PROBANDT (CANYON)	91.3	NORTHERN NATURAL
8234780	F-7C-049164	4241331158		103	107-TF	UNIVERSITY #178-3	UNIVERSITY 53 (CANYON	73.0	CRA INC
-INVESTEK INC				RECEIVED: 05/27/82 JA: TX					
8234863	F-09-050344	4207732535		102-4		TALLY "B" 1	TALLY CONGLOMERATE	0.0	CITIES SERVICE GA
-J A LEONARD				RECEIVED: 05/27/82 JA: TX					
8234650	F-02-042367	4225500000		102-4		WESSENDORFF #1	WESSENDORF WILCOX (81	205.0	LONE STAR GAS CO
-J A MARCH				RECEIVED: 05/27/82 JA: TX					
8234791	F-7C-049428	4245140660		102-4	103	SIMCIK FAMILY #1	LIPAN CREEK (HARKEY S	89.4	LONE STAR GAS CO
-J H ROBISON & ASSOCIATES LTD				RECEIVED: 05/27/82 JA: TX					
8234658	F-04-042835	4235531487		102-4		ELLA HERRING #1	MINNIE BOCK N (5860)	182.0	TENNESSEE GAS PIP
-J M HUBER CORPORATION				RECEIVED: 05/27/82 JA: TX					
8234890	F-10-051053	4223331289		103		INGERTON #7	PANHANDLE	43.0	COLORADO INTERSTA
8234933	F-10-051168	4223300000		108		RILEY "F" #2	WEST PANHANDLE	18.0	COLORADO INTERSTA
-JAMES R RENEAU				RECEIVED: 05/27/82 JA: TX					
8234618	F-10-038161	4246300000		108		PAUL LADD #1 RRC ID NO 25783	EAST PANHANDLE FIELD	5.4	TRANSWESTERN PIPE
-JOHN DEETER				RECEIVED: 05/27/82 JA: TX					
8234670	F-04-043719	4235531826		102-4		PAINTER #2A	COTTON (BUSENLEHNER S	300.0	FERGUSON CROSSING
-JOHN L COX				RECEIVED: 05/27/82 JA: TX					
8234668	F-7C-043621	4246131823		103		NEAL "40-38" #1	SPRABERRY (TREND AREA	10.0	MOBIL PROD TEXAS-
-JOHN R THOMPSON OPERATING INC				RECEIVED: 05/27/82 JA: TX					
8234725	F-02-046268	4202500000		103		E J BERTHOLD #1	BERCLAIR SOUTH (2700'	0.0	HOUSTON PIPE LINE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-JOYCE & HILTY INC				RECEIVED:	05/27/82	JA: TX
8234676	F-03-043944	4208931271		102-4		D C HILLBOLDT API NO 42 089 31271
-K-B EXPLORATION CO				RECEIVED:	05/27/82	JA: TX
8234742	F-03-047383	4208900000		102-4		W W FONDREN ESTATE #1
-KEITH D GRAHAM				RECEIVED:	05/27/82	JA: TX
8234919	F-03-051129	4204130575		102-2		GOEN "A" #1 #14843
-LACY & BYRD INC				RECEIVED:	05/27/82	JA: TX
8234918	F-7C-051117	4246131866		103		TXL-27 #2 RRC #09242
-LAKE RONEL OIL CO				RECEIVED:	05/27/82	JA: TX
8234764	F-05-048470	4228933446		102-2		EPPS #1
-LIVEOAK PRODUCTION CO				RECEIVED:	05/27/82	JA: TX
8234677	F-7B-043947	4208300000		102-4		TED TAYLOR ET AL #1
-LOGUE AND PATTERSON INC				RECEIVED:	05/27/82	JA: TX
8234828	F-02-049914	4217500000		108		E D TOERCK 2-D
-LOUIS A NEWITT				RECEIVED:	05/27/82	JA: TX
8234641	F-03-041481	4208900000		102-4		A J HRUZEK #1-C
8234642	F-03-041482	4208900000		102-4		A J HRUZEK #1-T
-MAJOR EXPLORATION INC				RECEIVED:	05/27/82	JA: TX
8234750	F-01-047778	4216332035		103		MELMS ESTATE #1
-MARSHALL EXPLORATION INC				RECEIVED:	05/27/82	JA: TX
8234751	F-06-047896	4236531385		102-4		SABINE ROYALTY #3
-MARSHALL R YOUNG OIL CO				RECEIVED:	05/27/82	JA: TX
8234620	F-08-038959	4203330667		103		GOOD
8234851	F-08-050190	4247532306		103		M L JOHNSON #1
8234850	F-7C-050183	4210532721		102-4		UNIVERSITY 14-33
-MEWBOURNE OIL COMPANY				RECEIVED:	05/27/82	JA: TX
8234886	F-08-051046	4210332735		103		COWDEN #2 RRC #26746
8234671	F-10-043728	4229530608		108		PRICE #1 RRC ID #81021
8234701	F-7C-044810	4238331927		103		UNIVERSITY B-1 RRC ID#
-MEYER & ASSOCIATES INC				RECEIVED:	05/27/82	JA: TX
8234655	F-8A-042661	4211500000		103		COLEMAN "C" #1
-MITCHELL ENERGY CORPORATION				RECEIVED:	05/27/82	JA: TX
8234749	F-09-047754	4223700000		108		EMMA MCCLURE #3 82822
8234871	F-09-050690	4249700000		108		J T MEADOWS #1 #28739
8234721	F-05-045721	4229330574		103	107-TF	SMYTHE #2
8234916	F-09-051109	4249732290		103		T C W B #33 UT #17355
8234884	F-09-051026	4249732247		103		T C W B #34 #17355
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	05/27/82	JA: TX
8234723	F-08-045877	4237133280		107-DP		KATHLEEN J MOORE B #1
-MORAN EXPLORATION INC				RECEIVED:	05/27/82	JA: TX
8234743	F-03-047628	4203931731		102-4		DARRINGTON STATE FARM TR-3 #1A
8234744	F-03-047629	4203931731		102-4		DARRINGTON STATE FARM TR-3 #1A
-MORROW RESOURCES INC				RECEIVED:	05/27/82	JA: TX
8234878	F-7C-050897	4245130890		102-2	103	MATHEWS #2
-MUSTANG EXPLORATION CO INC				RECEIVED:	05/27/82	JA: TX
8234633	F-03-040861	4214931158		102-2		REISS #2
-NICO ENERGY CORP				RECEIVED:	05/27/82	JA: TX
8234661	F-03-043088	4205100000		102-2	103	WHITENER "J" #1
-NORRIS PETROLEUM CORP				RECEIVED:	05/27/82	JA: TX
8234794	F-03-049477	4248100000		102-4		E H HANCOCK #4
-NORTH AMERICAN ROYALTIES INC				RECEIVED:	05/27/82	JA: TX
8234845	F-08-050137	4222732257		102-4		ALLRED #1 (96346)
-NORTH RIDGE CORP				RECEIVED:	05/27/82	JA: TX

FIELD NAME	PROD	PURCHASER
ORANGE HILL S (YEGUA	200.0	TENNESSEE GAS TRA
FONDREN RANCH (WILCOX	500.0	SEAGULL PIPELINE
GIDDINGS (AUSTIN CHAL	15.0	CLAJON GAS CO
SPRABERRY (TREND AREA	20.0	MOBIL PRODUCING T
HTB/GLEN ROSE/	275.0	
TRICKHAM (CROSSCUT LO	25.0	LONE STAR GAS CO
WEESATCHE SOUTH (FRIO	16.0	LONE STAR GAS CO
LYDIA (3660)	90.0	HYDROCARBON GATHE
LYDIA (3860)	90.0	HYDROCARBON GATHE
PEARSALL (AUSTIN CHAL	91.0	T G T INC
BELLE BOWER (PETTIT L	180.0	TENNESSEE GAS PIP
VEALMOOR	894.0	GETTY OIL CO
PAYTON	0.0	DEHLI GAS PIPELIN
PERNER RANCH (ELLENBE	1679.0	INTRATEX GAS CO
CRANE (DEVONIAN)	38.0	PHILLIPS PETROLEU
LIPSCOMB (ATOKA)	15.0	TRANSWESTERN PIPE
SPRABERRY (TREND AREA	15.0	DORCHESTER GAS PR
ACKERLY (DEAN SAND)	15.0	TEXACO INC
BOONSVILLE (BEND CONG	13.6	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	12.0	NATURAL GAS PIPEL
POKEY (COTTON VALLEY	2.7	TEXAS UTILITIES F
MORRIS (CONSOLIDATED	222.0	NATURAL GAS PIPEL
MORRIS (CONSOLIDATED	215.0	NATURAL GAS PIPEL
ROJO CABALLOS SOUTH (	1.5	EL PASO NATURAL G
DARRINGTON	0.0	CHANNEL INDUSTRIE
DARRINGTON (8300' SD)	0.0	CHANNEL INDUSTRIE
K W B (STRAWN)	77.4	LONE STAR GAS CO
GIDDINGS (AUSTIN CHAL	55.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
SCOTTY (FRIO)	150.0	UNITED TEXAS TRAN
ISAAC (STRAWN)	50.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROL	PURCHASER
*8234730	F-7B-046471	4213333414		102-4	103	HALL WALKER (BARKER) #1	RANGER (BLACK LIME WE	29.0	PRISM ENTERPRISES
*8234728	F-7B-046468	4213333442		102-4	103	HALL WALKER (BEARDEN) #1	RANGER (BLACK LIME WE	15.1	PRISM ENTERPRISES
*8234729	F-7B-046470	4213333121		102-4	103	W T DAVIS #2	RANGER (BLACK LIME WE	0.0	PRISM ENTERPRISES
-OGLE PRODUCTION CORP				RECEIVED:	05/27/82	JA: TX			
8234733	F-03-046552	4224531517		102-4		MARIE BORDAGES #1	HILDERBRANDT BAYOU (9	365.0	AMERICAN PIPELINE
-OILWELL OPERATORS INC				RECEIVED:	05/27/82	JA: TX			
8234790	F-10-049409	4206500000		103		WINTERS #1 NEW LEASE	PANHANDLE-CARSON	54.0	GETTY OIL CO
-OMEGA MINERALS INC				RECEIVED:	05/27/82	JA: TX			
8234939	F-01-051235	4250731368		102-4		C MUNDINE HASKETT #1	HASKETT (OLMOS)	89.0	VALERO TRANSMISSI
8234942	F-01-051238	4250731393		102-4		C MUNDINE HASKETT #2	HASKETT (1ST SAN MIGU	118.0	VALERO TRANSMISSI
8234940	F-01-051236	4250731504		102-4		CHESTER KIEFER #4-C	PINCHAM NORTH (OLMOS)	98.0	VALERO TRANSMISSI
8234941	F-01-051237	4250731504		102-4		CHESTER KIEFER #4-T	PINCHAM NORTH (SAN MI	39.0	VALERO TRANSMISSI
8234943	F-01-051239	4250731503		102-4		CHESTER KIEFER NO 5-T	STIDHAM (1ST SAN MIGU	18.0	VALERO TRANSMISSI
-OUTLINE OIL CORP				RECEIVED:	05/27/82	JA: TX			
8234669	F-03-043712	4214931000		103		MCCORVEY #1 14515	GIDDINGS (AUSTIN CHAL	135.0	PHILLIPS PETROLEU
-OXY PETROLEUM INC				RECEIVED:	05/27/82	JA: TX			
8234612	F-04-028824	4270330168		102-4		STATE LEASE M-77985 #2-L	MATAGORDA ISLAND BLOC	3.0	CHANNEL INDUSTRIE
-P & R OIL INC				RECEIVED:	05/27/82	JA: TX			
8234811	F-7B-049762	4213333109		102-4		WHITE #1	LEE RAY	135.0	LONE STAR GAS CO
-PALO PETROLEUM INC				RECEIVED:	05/27/82	JA: TX			
8234757	F-08-048065	4217331105		103		CALVERLEY "B" #1	SPRABERRY (TREND AREA	9.1	EL PASO NATURAL G
8234758	F-08-048066	4217331104		103		CALVERLEY "B" #2	SPRABERRY (TREND AREA	9.1	EL PASO NATURAL G
-PANHANDLE PRODUCING COMPANY				RECEIVED:	05/27/82	JA: TX			
8234707	F-7B-044907	4244100000		103		GAMBLE #1	BLAIR NORTH (ELLENBUR	4.0	LONE STAR GAS CO
-PARKER & PARSLEY INC				RECEIVED:	05/27/82	JA: TX			
8234870	F-08-050465	4232931066		103		HANKS #1	SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
-PAUL DE CLEVA				RECEIVED:	05/27/82	JA: TX			
8234715	F-09-045498	4249732169		103		JOE SKINNER #1	BOONESVILLE (BEND CON	487.0	SOUTHWESTERN GAS
8234629	F-09-040647	4249700000		103		KNAPP #1	WILDCAT PUITT VIOLA L	0.0	SOUTHWESTERN GAS
-PENNZOIL COMPANY				RECEIVED:	05/27/82	JA: TX			
8234800	F-08-049666	4243130982		103		FOSTER -18- #3	CONGER (PENN)	212.4	VALERO TRANSMISSI
-PENNZOIL PRODUCING COMPANY				RECEIVED:	05/27/82	JA: TX			
8234635	F-06-041025	4236500000		103	107-TF	LEWIS WERNER SAWMILL CO #16-A	BETHANY EAST (COTTON	0.0	UNITED GAS PIPE L
-PETRO-LEWIS CORPORATION				RECEIVED:	05/27/82	JA: TX			
8234656	F-08-042709	4210332434		103		J B TUBB STATE #13	SAND HILLS (MCKNIGHT)	150.0	EL PASO NATURAL G
8234637	F-06-041233	4241900000		103		STEPHENS #2	JOAQUIN (TRAVIS PEAK)	504.4	UNITED GAS PIPE L
-PETROLEUM CORPORATION OF TEXAS				RECEIVED:	05/27/82	JA: TX			
8234929	F-09-051156	4223700000		108		C R FRANKLIN #1-U	RISCH S E (CADDO CONG	12.3	CITIES SERVICE GA
8234855	F-7B-050260	4222130035		108		THORMANN UNIT #1	LIPAN (MARBLE FALLS)	7.3	TEXAS UTILITIES F
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/27/82	JA: TX			
8234920	F-7C-051130	4238310204		108		PHILLIPS SOUTHLD ROYLTY ZULETTE#13	SPRABERRY (TREND AREA	9.0	NORTHERN NATURAL
8234921	F-7C-051131	4238301169		108		PHILLIPS SOUTHLD ROYLTY ZULETTE#6	SPRABERRY (TREND AREA	5.0N	ORTHERN NATURAL
8234923	F-08-051133	4237110019		108		ROBERTA J #1	BELDING (YATES	7.0	APACHE GAS CORP
8234922	F-08-051132	4237110027		108		ROBERTA J #2	BELDING (YATES)	9.0	APACHE GAS CORP
8234771	F-09-048950	4233700000		108		ROSCOE B #1	BOWIE N E (VIOLA)	13.9	J L DAVIS
8234614	F-10-033803	4217900000		108		TRUST #1	PANHANDLE WEST	0.0	
-POWCO OIL & GAS INC				RECEIVED:	05/27/82	JA: TX			
8234852	F-06-050196	4245900000		103	107-TF	RUBY RASH MARSH #1	GLENWOOD (COTTON VALL	133.0	DELHI GAS PIPELIN
-PRICE DRILLING & EXPLORATION CO				RECEIVED:	05/27/82	JA: TX			
8234639	F-04-041326	4247932810		102-4		A BENAVIDES #3-269	LAUREL N (FRIO 1400)	16.0	VALERO TRANSMISSI
-PRODECO EXPLORATIONINC				RECEIVED:	05/27/82	JA: TX			
8234766	F-03-048635	4204130626		102-2		A C RISINGER UNIT II #1	KURTEN (BUDA)	1204.5	PRODUCER'S GAS CO
8234769	F-03-048919	4204100000		102-2		BERT WHEELER #3-U	KURTEN (WOODBINE)	96.7	PRODUCER'S GAS CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-QUINTEX PETROLEUM CORP				RECEIVED:	05/27/82	JA: TX
8234643	F-02-041498	4229732614		102-4		E A HINES #1-U
-R & W PRODUCTION CO				RECEIVED:	05/27/82	JA: TX
8234938	F-7C-051202	4239900000		103		C P RIVES #1 (09148)
-R C SLACK				RECEIVED:	05/27/82	JA: TX
8234812	F-08-049774	4249500000		108		BROWN & ALTMAN A/C 2 16
-R H ENGELKE				RECEIVED:	05/27/82	JA: TX
8234732	F-02-046528	4223931175		103		JOHN M BENNETT "B" #3-C
-R H SIEGFRIED INC				RECEIVED:	05/27/82	JA: TX
8234857	F-09-050318	4223700000		108		BROWN LUPTON -B- #1
8234856	F-09-050317	4223700000		108		CHERRYHOMES #B-1
-REALITOS ENERGY CORP				RECEIVED:	05/27/82	JA: TX
8234718	F-04-045595	4235531601		102-4		STATE TRACT 384 #1
-REO INDUSTRIES INC				RECEIVED:	05/27/82	JA: TX
8234837	F-10-050075	4223300000		103		WHITTENBURG 1-27
-REYNOLDS ORLG CO & ENI EXPL CO				RECEIVED:	05/27/82	JA: TX
8234846	F-06-050139	4240131293		103	107-TF	RUST #1
-RIDGE OIL CO				RECEIVED:	05/27/82	JA: TX
*8234853	F-78-050206	4213333515		102-4	103	NANIE WALKER EST #1
-RIO BRAVO OIL CO INC				RECEIVED:	05/27/82	JA: TX
8234881	F-02-050932	4212331175		102-4		C H WIED ET AL
-ROBERT D VALERIUS & FLEXCO				RECEIVED:	05/27/82	JA: TX
8234885	F-02-051027	4202531589		103		BECK-GOZA #1
-SAGE OIL CO				RECEIVED:	05/27/82	JA: TX
8234834	F-09-049976	4207731112		103		J T LYLES #1
-SAMEDAN OIL CORPORATION				RECEIVED:	05/27/82	JA: TX
8234745	F-03-047640	4222530431		102-4		ST REGIS PAPER CO "C" #1
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	05/27/82	JA: TX
8234689	F-02-044335	4229732661		102-4		CHARLES L BODDEN #6
8234626	F-04-040162	4247932953		103		OLMITOS RANCH INC #1
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	05/27/82	JA: TX
8234835	F-03-050016	4228731141		102-2	103	B J STORK #3
8234753	F-03-047956	4228731075		102-2	103	MAMIE #1
8234752	F-03-047954	4228731123		102-2	103	RICHARD UNIT #1
-SAXON OIL COMPANY				RECEIVED:	05/27/82	JA: TX
8234925	F-7C-051143	4246131865		103		BRUSENHAN #3
8234741	F-08-047375	4231700000		103		ESTEP #1
8234638	F-06-041243	4231700000		103		HEALD #1
8234747	F-7C-047706	4238300000		103		UNIVERSITY 33-9 #4
-SHELL OIL CO				RECEIVED:	05/27/82	JA: TX
8234713	F-04-045487	4221531128		103		A A MCALLEN #75
-SHOW PETROLEUM INC				RECEIVED:	05/27/82	JA: TX
8234808	F-78-049759	4213332926		102-4		R L CANTWELL #1 (17671)
8234809	F-78-049760	4213333083		102-4		R L CANTWELL #2 (17671)
8234810	F-78-049761	4213333292		102-4		W O CANTWELL #1
-SOUTHEASTERN P/L CO & PRES ROY C				RECEIVED:	05/27/82	JA: TX
8234722	F-03-045762	4248100000		103		A T LEVERIDGE UNIT #3-C
-STAHL PETROLEUM CO				RECEIVED:	05/27/82	JA: TX
8234831	F-10-049952	4234100000		103		COFFEE #1
8234830	F-10-049951	4217930704		103		TURMAN #2
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	05/27/82	JA: TX
8234783	F-02-049252	4246900000		108		A FRIAR #5
8234782	F-08-049240	4233532072		103		FRANKIE STUBBLEFIELD #13

FIELD NAME	PROD	PURCHASER
MOUNTAIN VIEW NE (680	365.0	VALERO TRANSMISSI
BRILEY (MORRIS SD)	27.0	LONE STAR GAS CO
EMPEROR	12.7	WEST TEXAS GATHER
LASALLE (6530)	310.0	TENNESSEE GAS PIP
BOONSVILLE (BEND CONG	20.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	20.0	NATURAL GAS PIPEL
RED FISH BAY (FRIO 84	365.0	DOW CHEMICAL CO
PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
NORTH TATUM - COTTON	0.0	UNITED GAS PIPE L
RANGER NW (MARBLE FAL	162.0	COMPRESSOR RENTAL
KAWITT FIELD	200.0	INTRASTATE GATHER
NORMANNA	600.0	UNITED GAS PIPE L
LA-PAN (ATOKA)	2.0	FAGADAU ENERGY CO
FT TRINIDAD	182.0	SOUTH TEXAS GATHE
GEORGE WEST WEST (818	500.0	UNITED TEXAS TRAN
OLMITOS (7080)	0.0	UNITED TEXAS TRAN
GIDDINGS (AUSTIN CHAL	109.5	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
SPRABERRY (TREND AREA	15.3	MOBIL PRODUCING T
BREEDLOVE EAST (SPRAB	0.0	PHILLIPS PETROLEU
BREEDLOVE EAST (SPRAB	0.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
MCALLEN RANCH (VICKSB	250.0	VALERO TRANSMISSI
RANGER N W (MARBLE FA	27.0	LONE STAR GAS CO
RANGER N W (MARBLE FA	27.0	LONE STAR GAS CO
RANGER N W (MARBLE FA	5.0	LONE STAR GAS CO
BERNARD EAST (7600')	240.0	TENNESSEE GAS PIP
TEXAS HUGOTON	16.1	PHILLIPS PETROLEU
EAST PANHANDLE	30.5	PHILLIPS PETROLEU
HELEN GOHLKE W/WILCOX	10.0	HOUSTON PIPELINE
N JAMESON (STRAWN)	6.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
*8234928	F-08-051154	4213533810		103		HOLT O B A/C #1 #20	COWDEN NORTH	11.0	PIONEER NATURAL G
*8234927	F-08-051153	4213533809		103		O B HOLT A/C 1 #21	COWDEN NORTH	16.0	PIONEER NATURAL G
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	05/27/82	JA: TX			
8234611	F-10-019836	4217900000		108		COMBS & WORLEY "B" #3	PANHANDLE	1.0	PHILLIPS PETROLEU
-SWEETWATER DRILLING CO INC				RECEIVED:	05/27/82	JA: TX			
8234630	F-7B-040741	4205933193		103		KOERBER #1	CALLAHAN COUNTY REGUL	259.0	BENGAL GAS TRANSM
8234631	F-7B-040743	4236732052		102-4		NELSON #1	MOBY DICK (STRAWN)	221.0	SOUTHWESTERN GAS
-TDC ENGINEERING INC				RECEIVED:	05/27/82	JA: TX			
8234796	F-01-049495	4217700000		102-4		DEBERRY UNIT #1	PEACH CREEK (AUSTIN C	212.0	VALERO TRANSMISSI
-TDC EXPLORATION INC				RECEIVED:	05/27/82	JA: TX			
8234930	F-03-051158	4214900000		102-2		TROUSDALE #2	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-TENEXPLO FUND III				RECEIVED:	05/27/82	JA: TX			
8234683	F-09-044168	4250300000		102-2		WORTH GRAGG #2	YOUNG COUNTY REGULAR	5523.5	MID-STATES GAS CO
8234684	F-09-044169	4250300000		102-2		WORTH GRAGG #3	YOUNG COUNTY REGULAR	5523.5	MID-STATES GAS CO
8234682	F-09-044158	4250300000		102-2		WORTH GRAGG #7	YOUNG COUNTY REGULAR	5523.5	MID-STATES GAS CO
-TENNECO OIL COMPANY				RECEIVED:	05/27/82	JA: TX			
8234859	F-8A-050337	4250132113		103		CENTRAL GLORIETA UNIT #59	PRENTICE	0.0	AMOCO PRODUCTION
8234763	F-8A-048300	4207900000		103		MALLET LAND & CATTLE #19	SLAUGHTER	0.0	AMOCO PRODUCTION
8234726	F-04-046273	4242731476		102-4		T B SLICK ESTATE N #76	HINDE (VICKSBURG 21)	292.0	TENNESSEE GAS PIP
-TEXACO INC				RECEIVED:	05/27/82	JA: TX			
8234947	F-08-051259	4237100000		108		H J EATON "A" NCT-5 #1	TCI (YATES)	4.1	
8234786	F-8A-049316	4221933312		103		IRA P DELOACHE #23	LEVELLAND	34.7	AMOCO PRODUCTION
8234711	F-8A-045356	4221933307		103		IRA P DELOACHE #47	LEVELLAND	0.0	AMOCO PRODUCTION
8234807	F-8A-049737	4221933389		103		MONTGOMERY ESTATE DAVIES NCT-2 #88	LEVELLAND	0.0	AMOCO PRODUCTION
8234785	F-8A-049311	4250132066		103		ROBERTS UNIT #2726	WASSON	0.0	SHELL OIL CO
8234675	F-08-043910	4243131048		103		STERLING "T" FEE #1	CONGER SW (PENN)	0.0	
8234776	F-7C-048990	4246131812		102-4		UPTON "X" FEE #1	PERSEUS	294.1	
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	05/27/82	JA: TX			
8234720	F-03-045675	4214900000		102-2		BAUER #2	GIDDINGS (AUSTIN CHAL	225.0	CLAJON GAS CO
8234706	F-03-044888	4204100000		102-2		DYESS #1	KURTEN	146.0	PRODUCER'S GAS CO
8234773	F-03-048954	4205100000		102-2		GIESSEL #B-3	GIDDINGS (AUSTIN CHAL	365.0	CLAJON GAS CO
8234625	F-03-040150	4205100000		102-2		GIESSEL #5-D	GIDDINGS (AUSTIN CHAL	700.0	CLAJON GAS CO
8234734	F-03-046632	4228731001		102-2		GUELKER #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
8234705	F-03-044884	4205100000		102-2		WILHELM #2	GIDDINGS (AUSTIN CHAL	256.0	CLAJON GAS CO
-TEXAS OIL & GAS CORP				RECEIVED:	05/27/82	JA: TX			
8234680	F-05-044093	4216130672		103	107-TF	BROWN "K" #1	BEAR GRASS NE (COTTON	0.0	
8234843	F-08-050104	4210931556		103		CATCLAW STATE "A" #2	FORD WEST (4100)	12.0	DELHI GAS PIPELIN
8234822	F-12-049876	4235731192		103		CRUM #2	PARSELL (UPPER MORROW	500.0	DIAMOND SHAMROCK
8234724	F-03-046047	4219931631		102-4		GORDON #1	ARRIOLA (YEGUA 9600)	0.0	
8234648	F-06-041978	4241930355		102-4		HOOPER #1	TIMPSON (TRAVIS PEAK)	0.0	
8234619	F-03-038937	4231330302		102-4	103	JONES "FF" #1	CARAWAY (GLEN ROSE-GA	0.0	
8234765	F-08-048487	4210300000		102-4		NELLIE TUCKER "C" #1	COSTA (CLEARFORK UPPE	1200.0	DELHI GAS PIPELIN
8234681	F-05-044094	4216100000		103	107-TF	ORAND "A" #1	REED N (COTTON VALLEY	0.0	
-THE ANSCHUTZ CORPORATION				RECEIVED:	05/27/82	JA: TX			
8234727	F-03-046274	4232100000		102-4		ALBERT NILSON #1 RRC ID #096909	RUGELEY SW (13225)	1460.0	TEXAS EASTERN GAS
-THOMPSON J CLEO & JAMES CLEO				RECEIVED:	05/27/82	JA: TX			
8234770	F-7C-048927	4210533680		103	107-TF	UNIVERSITY 30-9 #1	OZONA (CANYON SAND)	120.0	PHILLIPS PETROLEU
8234872	F-7C-050714	4210533949		102-4		UNIVERSITY 31-28W #2	UNIVERSITY 31 (QUEEN)	200.0	PHILLIPS PETROLEU
-THROCKMORTON GAS SYSTEMS				RECEIVED:	05/27/82	JA: TX			
8234653	F-7B-042545	4244732669		102-2		GLORY #1 #17456	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8234678	F-7B-043969	4244700000		102-2		J W LILLY #1 #17406	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8234739	F-7B-047025	4244700000		102-2		MORROW #1 #14432	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8234617	F-7B-037148	4244731524		102-4		RICHARDS #1-H 13987	NICHOLS-KEETER (MISS)	0.0	WARREN PETROLEUM

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234654	F-7B-042547	4244700000		102-4		ROADRUNNER #1 (16412)	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8234662	F-7B-043176	4244732387		102-2		ROADRUNNER #2 (#16412)	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
-TIPPERARY OIL AND GAS CORP				RECEIVED:	05/27/82	JA: TX			
8234673	F-01-043876	4216332050		103		CARLTON MASSEY #13	PEARSALL (AUSTIN CHAL	0.0	TIPPERARY CORP
-TOMMY DIXON				RECEIVED:	05/27/82	JA: TX			
8234704	F-09-044878	4250335391		103		THETFORD #21589	YOUNG COUNTY REGULAR	350.0	SUN GAS TRANSMISS
-TOWNSEND CO				RECEIVED:	05/27/82	JA: TX			
8234839	F-7C-050085	4239921429		102-4		DICKINSON #1 (08629)	BALLINGER WEST (CAPPS	164.0	LONE STAR GAS CO
8234840	F-7C-050086	4239900000		102-4		DICKINSON #2 (08629)	BALLINGER WEST (CAPPS	10.0	LONE STAR GAS CO
8234841	F-7C-050087	4239900000		102-4		DICKINSON #3 (08629)	BALLINGER WEST (CAPPS	10.0	LONE STAR GAS CO
-TRANSCONTINENTAL OIL CORPORATION				RECEIVED:	05/27/82	JA: TX			
8234842	F-05-050102	4228930474		102-4	103	E G FLOYD #1	RED OAK S E (WOODBINE	0.0	
-TROJAN OIL PRODUCTION & SERVICES IN				RECEIVED:	05/27/82	JA: TX			
8234798	F-7C-049633	4239931980		103		NORTHINGTON #2	BIG ED (GARDNER LIME)	1.0	LONE STAR GAS CO
-TRUMTER PETROLEUM CORP				RECEIVED:	05/27/82	JA: TX			
8234804	F-7B-049722	4209300000		108		ALLEN E H #1 RRC #017673	ENERGY (MARBLE FALLS)	6.0	LONE STAR GAS CO
8234805	F-7B-049723	4209300000		108		PETTIT W C #1 RRC #017674	ENERGY (MARBLE FALLS)	7.0	LONE STAR GAS CO
8234806	F-7B-049724	4209300000		108		RUDD G T #2 RRC #017675	ENERGY (MARBLE FALLS)	14.0	LONE STAR GAS CO
-TUCKER DRILLING COMPANY INC				RECEIVED:	05/27/82	JA: TX			
8234818	F-7C-049817	4243500000		108		DUNBAR #1	SAWYER (CANYON)	19.6	EL PASO NATURAL G
8234816	F-7C-049813	4243500000		108		DUNBAR #10	SAWYER (CANYON)	19.5	EL PASO NATURAL G
8234817	F-7C-049816	4243500000		108		DUNBAR #7	SAWYER (CANYON)	14.0	EL PASO NATURAL G
-U S EXPLORATION CORP				RECEIVED:	05/27/82	JA: TX			
8234801	F-7B-049677	4213331527		103		THURMAN 397694	HOGTOWN WEST (CADDO)	10.0	NORTHERN GAS PROD
-UNION OIL COMPANY OF CALIF				RECEIVED:	05/27/82	JA: TX			
8234712	F-08-045465	4213533573		103		MOSS UNIT #17-15	COWDEN SOUTH	3.0	ODESSA NATURAL CO
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	05/27/82	JA: TX			
8234667	F-1[illegible]-043618	4229530998		103		HEIL #1	WILEY (TONKAWA)	63.0	PHILLIPS PETROLEU
-UTX EXPLORATION INC				RECEIVED:	05/27/82	JA: TX			
8234666	F-02-043362	4202500000		102-4		K D ROCHE B-2T	HEARD RANCH (4600) -	55.0	TRUNKLINE GAS CO
-VERNON E FAULCONER INC				RECEIVED:	05/27/82	JA: TX			
8234774	F-06-048967	4236500000		108		MAUDE ODEN RRC ID #29384	BETHANY (PETTIT)	15.0	TENNESSEE GAS PIP
-W R EDWARDS JR				RECEIVED:	05/27/82	JA: TX			
8234935	F-10-051173	4223300000		103		BEARKILLER #12	PANHANDLE HUTCHINSON	150.0	PANHANDLE PRODUCI
8234934	F-10-051172	4223300000		103		BEARKILLER #22	PANHANDLE HUTCHINSON	150.0	PANHANDLE PRODUCI
-WALSH AND WATTS INC				RECEIVED:	05/27/82	JA: TX			
8234903	F-7B-051092	4215131450		103		WITT (LEASE NO 10810) #2	JUDY GAIL (CANYON SAN	11.0	LONE STAR GAS CO
-WATCO ENERGY INC				RECEIVED:	05/27/82	JA: TX			
8234679	F-7C-044062	4239931409		102-4	103	HENDRICKS "C" #2	G V (JENNINGS)	43.1	ODESSA NATURAL CO
-WES-MOR DRILLING INC				RECEIVED:	05/27/82	JA: TX			
8234848	F-7B-050159	4236300000		108		WALTER ASH #1 RRC ID #31638	GRAFORD (BEND CONGLOM	0.0	LONE STAR GAS CO
-WESTERN CHIEF OIL & GAS CO				RECEIVED:	05/27/82	JA: TX			
8234813	F-09-049781	4250335599		103		ARTHUR S SHANAFELT #2 I D	YOUNG COUNTY REGULAR	10.2	SOUTHWESTERN GAS
-WESTLAND OIL DEVELOPMENT CORP				RECEIVED:	05/27/82	JA: TX			
8234844	F-8A-050115	4233330709		102-4		DON A JONES #1	GRAVEL PIT (STRAWN A)	0.0	SUN GAS CO
-WILLIAM PERLMAN				RECEIVED:	05/27/82	JA: TX			
8234779	F-7C-049064	4244330262		103	107-TF	MITCHELL - STATE 22-2	OZONA (CANYON SAND)	0.0	EL PASO NATURAL G
-WILSON-OWENS PRODUCTION CO				RECEIVED:	05/27/82	JA: TX			
8234756	F-06-048048	4236500000		103	107-TF	ALLISON #4A	CARTHAGE (COTTON VALL	365.0	UNITED GAS PIPE L
-WINDSOR PRODUCING CO				RECEIVED:	05/27/82	JA: TX			
8234694	F-03-044648	4228731062		102-2	103	LOUIS SCHATTE UNIT #1	GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
-WM GRUENERWALD & ASSOC INC				RECEIVED:	05/27/82	JA: TX			
8234926	F-10-051144	4234130763		103		MASTERSON G#2OR 03839	PANHANDLE (RED CAVE)	10.2	COLORADO INTERSTA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-WOOD MCSHANE & THAMS				RECEIVED:	05/27/82	JA: TX			
8234898	F-08-051087	4200332926		103		LITTMAN "B" 101 RRC #27082	LITTMAN (SAN ANDRES)	73.0	
-WOODS PETROLEUM CORP				RECEIVED:	05/27/82	JA: TX			
8234708	F-10-044915	4239330868		103		CHAMBERS #1-121	MENDOTA NW (GRANITE W	0.0	PIONEER CORP
8234634	F-10-041021	4221131321		102-4	103	KRITSER #133-1	HOWE RANCH S (MORROW	406.5	EL PASO NATURAL G

OTHER PURCHASERS VOLUME NO :671

8234616	INTRASTATE GATHERING CORP
8234728	LONE STAR GAS CO
8234729	LONE STAR GAS CO
8234730	LONE STAR GAS CO
8234775	E I DUPONT DE NEMOURS & CO INC
8234787	E I DUPONT DE NEMOURS & CO INC
8234853	LONE STAR GAS CO
8234866	E I DUPONT DE NEMOURS & CO INC
8234891	LONE STAR GAS CO
8234892	LONE STAR GAS CO
8234927	AMOCO PRODUCTION CO
8234928	AMOCO PRODUCTION CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 7, 1982.

Categories within each NGPA section are indicated by the following codes:

Section:
102–1 New OCS lease
102–2 New well (2.5 mile rule)
102–3 New well (1,000 ft. rule)
102–4 New onshore reservior
102–5 New reservoir on old OCS lease

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

108 Stripper well
108–SA Seasonally affected
108–ER Enhanced recovery
108–PB Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–16826 Filed 6–21–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. EL82–7–000 and EL82–12–000]

Wheelabrator Frye, Inc.; Declaratory Order

Issued: June 15, 1982.

On February 12, 1982, and March 23, 1982, Wheelabrator Frye, Inc. (WFI) submitted substantially identical petitions for declaratory orders in Docket Nos. EL82–7–000 and EL82–12–000, respectively. Docket No. EL82–7–000 involves Wheelabrator Energy Systems, Westchester, Inc. (WESI), a wholly-owned WFI subsidiary, and Westchester RESCO (RESCO), a partnership expected to be formed by WESI and additional partners. Docket No. EL82–12–000 involves Wheelabrator Energy Systems, Baltimore, Inc. (WESBI) and another anticipated partnership, Baltimore RESCO (BRESCO). WESI, together with RESCO, plans to construct, own, and operate a 47 megawatt qualifying small power production facility, as defined in section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA) and § 292.204 of the Commission's regulations, which will generate electricity for sale to Consolidated Edison Company of New York, Inc. (Con Ed). WESBI and BRESCO will construct, own, and operate a similar facility (55 megawatts) for sale of electricity to Baltimore Gas & Electric Company (BG&E).[1] WESI and Con Ed have entered into an Energy Purchase Agreement which would provide for interconnection with the subject facility and for the associated rates. BG&E has signed a letter of intent to excute such an agreement.

Because the facilities in question each will have a generating capacity between 30 and 80 megawatts and will be fueled primarily by biomass, under section 210 of PURPA and the Commission's regulations they will be exempt from regulation under the Public Utility Holding Company Act of 1935 and from state regulation of rates and financial organization; they will not, however, be exempt from regulation under the Federal Power Act. Nonetheless, WFI requests a Commission declaration that it will not assert jurisdiction over WESI, RESCO, WESBI, or BRESCO under the circumstances enumerated in WFI's pleadings. If the Commission does assert jurisdiction, WFI asks the Commission to declare at this time (1) that the rates for power sold from the facilities will be established under section 210 of PURPA, rather than sections 205 and 206 of the Federal Power Act, and (2) that the rates, having been established through negotiated agreement, will not be subject to adjustment by the Commission.

In the event that sections 205 and 206 of the Federal Power Act are found to be applicable, WFI alternatively seeks a declaration that: (1) The rates contained in the Energy Purchase Agreements will be accepted for filing; (2) the Commission will not, *sua sponte*, subject the rates to investigation; and (3) the Commission will not apply section 205 procedures to rate changes in accordance with the formula rates established in the Energy Purchase Agreements. In addition, WFI requests waiver of certain Commission requirements regarding rate filing support, accounting practices, financing, interlocking directorates, and disposition of assets.

WFI contends that the revenues expected to be received through the Energy Purchase Agreements will provide a major part of the security underlying the issuance of bond financing for the facilities. Such financing is expected to occur in the spring of 1982, and WFI states that certainty with respect to the enforceability of the specified rates is essential to a successful bond sale.

Notice of WFI's filings was issued on March 5, 1982, and April 13, 1982, with responses due on or before April 9, 1982, and May 5, 1982.

Discussion

We believe it appropriate at the outset to note that the conclusions expressed in this order are based upon an analysis of the facts as presented in WFI's pleadings and are stated in order to provide some advance guidance to WFI and other similarly situated entities. Furthermore, as noted by WFI, the Commission stated its intention in Order No. 69 (February 19, 1980) to prescribe generic procedures for determining rates applicable to the 30–80 megawatt class of small power producers. Such procedures have not yet been established and we emphasize that this is a novel area in which the Commission as well as the affected parties must benefit from experience.

WFI asserts that the Commission should decline to exercise jurisdiction over the facilities on the grounds that neither the purposes of the Federal Power Act nor any other public purpose would be furthered by federal regulation, that adequate scrutiny over the transactions will exist at the state commission level, and that the nascent solid waste industry should not be subject to utility-type regulation. According to WFI, in situations such as this, where the amount of electricity to be generated is *de minimis*, the Commission is empowered to waive jurisdiction and is justified in doing so.

We need not reach WFI's contentions that the Commission has authority to waive jurisdiction, inasmuch as we believe that to do so would contravene

[1] According to WFI, RESCO and BRESCO will be formed so that neither partnership will be "owned by a person primarily engaged in the generation or sale of electric power. . ." *See* 18 CFR 292.206. The primary energy source for the anticipated facilities will be biomass in the form of solid municipal waste. Applications for certification of qualifying status were granted as to these facilities by letter dated April 23, 1982, in Docket No. QF82–75–000, and by letter dated May 14, 1982, in Docket No. QF82–97–000. Energy Purchase Agreement which would provide for interconnection with the subject facility and for the associated rates. BG&E has signed a letter of intent to execute such an agreement.

Congressional intent with respect to qualifying small power production facilities in excess of 30 megawatts. We acknowledge that, in enacting PURPA, Congress did not intend to subject cogenerators and small power producers to typical utility-type regulation or to the full scope of ratemaking examination.[2] Notwithstanding the general desire to encourage such alternative energy sources, however, Congress left no doubt as to its intent to distinguish between facilities with generating capacities above and below the 30 megawatt threshold level. Thus, when the Commission promulgated rules for state regulatory authorities and nonregulated electric utilities to follow in establishing purchase rates for qualifying facilities under section 210 of PURPA,[3] we noted that small power production facilities between 30 and 80 megawatts cannot be exempted from the Federal Power Act. The Commission has already exercised jurisdiction over one such facility in Docket No. ER82-225-000 (Resources Recovery (Dade County), Inc.).[4] Furthermore, WFI has set forth no facts which would distinguish WESI, Westchester, and BRESCO from other 30-80 megawatt small power producers so as to justify waiver of jurisdiction as an individual exception.[5] As a result, we shall deny WFI's request for a Commission declaration waiving jurisdiction.

Although under the circumstances presented, Federal Power Act jurisdiction would attach, the language of the Conference Report accompanying section 210 of PURPA indicates that the Commission would have to follow PURPA principles in establishing or reviewing rates for sale of power by WESI and RESCO to Con Ed and by WESBI and BRESCO to BG&E:

> In providing that the 30-80 megawatt class of small power production facilities may not be exempt from the Federal Power Act under subsection (e) (of PURPA section 210), the conferees intended that where such facilities are subject to the Federal Power Act jurisdiction, the Commission must set the rates for the sale of power by such facilities in accordance with the requirements of [section 210 of PURPA].[6]

Section 292.304(b)(2) of the Commission's regulations implementing section 210 of PURPA establishes that an avoided cost rate for purchase is a just and reasonable rate. Section 292.301(b) of the Commission's regulations further provides for mutual agreement between a qualifying facility and an electric utility concerning rates, terms or conditions under section 210.

While the substantive rate provisions of PURPA would control in the situation described by WFI, barring a rulemaking to establish independent procedures for 30-80 megawatt small power production rates, the procedural requirements set forth in sections 205 and 206 of the Federal Power Act and the regulations thereunder would govern to the extent applicable. This is consistent with the Congressional decision not to exempt the 30-80 megawatt class from Federal Power Act jurisdiction. thus, at a future date it will be incumbent upon WFI or the applicable operating companies to tender the Energy Purchase Agreements, any associated agreements or rates, and any appropriate supporting materials for filing with this Commission and to provide the requisite statutory notice.

With regard to the timing of the filing of these rates, the Commission notes that a rate may be tendered for filing no more than 120 days before it is to become effective, pursuant to § 35.3 of the Commission's regulations. this requirement is intended to prevent the use of stale data in developing a test period for cost-of-service-based rates. Section 35.3(b), however, allows the commission to waive the 120 day time limit upon request where, as here, the rate schedules are predicated on the construction of facilities. Since the rates to be filed by WFI are negotiated formula rates based on the purchasing utility's avoided costs and do not involve the selling parties' costs for a particular test period, the Commission will waive the 120 day requirement upon request.

The Commission has, furthermore, recognized and is sensitive to the fact that the cost of service data requirements contained in §§ 35.12 and 35.13 of the regulations, and applicable to the selling party's, are irrelevant insofar as they would require a small power producer to substantiate its cost of service. *See Resources Recovery (Dade County), Inc.*, Docket No. ER82-225-000 (March 12, 1982). As a result, we will grant a request for waiver of inapplicable cost support requirements at such time as a rate submittal is tendered for filing. To the extent that inapplicable requirements are waived, we perceive the notice and filing requirements as imposing neither an undue burden nor unnecessary uncertainty.

Despite WFI's urging, in advance of the actual rate filings, we are not prepared to declare that the negotiated rates will be self-executing without the possibility of revision pursuant to the Federal Power Act. In advance of the actual rate filings it would be imprudent for the Commission to limit its statutory options without benefit of having reviewed the filed contractual package ultimately submitted by the parties. As a general proposition, however, we note that with regard to qualifying facilities, the Commission has expressed a policy of encouraging and condoning the establishment of rates, terms, and conditions by mutual agreement.[7] We also note that as to both WFI facilities, the energy sale arrangements will not become effective prior to compliance with applicable state regulatory requirements. Specific approval of the energy sale arrangements must be obtained from the New York Commission[8] and the Maryland Commission will review any energy sale contract to determine whether to lodge objections.[9] We further observe that the rates identified by WFI are developed on the basis of the purchasing utilities' avoided costs.

Based on these factors, we do not anticipate any reason to institute an investigation as to the lawfulness of the rates embodied in the WESI and WESBI Energy Purchase Agreements when they are tendered for filing.

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[2] Conference Report on the Public Utility Regulatory Policies Act. Report No. 95-1750. 95th Cong., 2d Sess. at 97-98 (1978). reprinted in 1978 United States Code and Ad. News at 7831. 7832.

[3] Order No. 69. Docket No. RM79-55 (issued Feb. 19. 1980). 45 FR 12214 (Feb. 25. 1980). vacated in part and affirmed in part. *American Electric Power Service Corp., et al.* v. *FERC*. No. 80-1789 (D.C. Cir., June 22. 1982). rehearing *en banc* denied (April 23. 1982). A motion for stay of the mandate was granted on April—, 1982. The mandate was stayed for 30 days from the date rehearing was denied.

[4] *See* order issued March 12. 1982. 18 FERC ¶61.243.

[5] WFI infers that a negotiated agreement by the purchaser and seller to a mutually satisfactory rate constitutes a distinguishing factor and effectively serves as an adequate substitute for Federal Power Act jurisdiction. As discussed below. the existence of an arms-length agreement may be expected to weigh heavily at such time as the Commission evaluates a specific rate in the context of a timely filing. However. we not not agree with WFI that such an agreement can be considered as an ouster of statutory jurisdiction.

[6] H.R. Rep. No. 95-1750. 95th Cong., 2nd Sess. 99 (1978).

[7] *See, e.g.*, Order No. 69. *supra:* 18 CFR 292.301(b).

[8] The Energy Purchase Agreement requires. in section 8(B). that it be submitted to the New York PSC for its approval. By its terms. the Energy Purchase Agreement will not become effective unless New York PSC approval is granted or the time during which the New York PSC may disapprove the Agreement has lapsed without action by the New York PSC.

[9] Section 54D of the Maryland Public Service Commission Law authorizes the Maryland Public Service Commission to review changes in a utility's costs of purchased power. and to exclude such costs "upon the failure of the Company to follow competitive practices in the * * * purchasing of * * * power. or upon a showing that the company was unreasonable in its * * * purchasing practices." Md. Ann. Code Article 78. § 54D.

WFI notes that the Energy Purchase Agreements contain formula rate provisions and also expresses concern as to whether the Commission will require successive rate filings for changes in accordance with the formula. Consistent with well-established Federal Power Act practice, if and when the specified formula is itself approved as the filed rate, subsequent changes that are fully consistent with the formula rate need not be submitted as independent rate changes.

Finally, WFI requests that the Commission waive a number of other regulations and statutory requirements. We note that similar requests have been made with respect to an actual rate filing made by Resources Recovery (Dade County), Inc. in Docket No. ER82-225-000. Because of the number and complexity of the questions raised by those requests, we deferred the issue for further consideration, stating our intention to address those matters in a subsequent order.[10] Accordingly, we believe that it would be premature to resolve these questions with respect to WFI at this time. Declaratory relief with respect to these requests for waiver will therefore be denied without prejudice. The Order to be issued in the Resources Recovery proceeding should provide substantial guidance to WFI

The Commission orders:

(A) WFI's petitions for declaratory relief are hereby granted in part and denied in part as discussed in the body of this order.

(B) Docket Nos. EL82-7-000 and EL 82-12-000 are hereby terminated.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16824 Filed 6-21-82; 8:45 am]

BILLING CODE 6717-01-M

Southeastern Power Administration

Proposed Rate Extensions and Rate Adjustment and Opportunities for Public Review and Comment

AGENCY: Southeastern Power Administration (Southeastern), DOE.

ACTION: Notice of proposed rate extensions and rate adjustment for Kerr-Philpott System and opportunity for review and comment.

SUMMARY: Southeastern proposes to extend the currently approved Rate Schedules KP-1-B and KP-2-B for Kerr-Philpott Projects power for a 6-month period through March 31, 1983. Southeastern also proposes to adjust the JHK-1-C rate schedule to pass through the increased costs of wheeling to the prefence customers served through the facilities of the Carolina Power and Light Company (CP&L).

Opportunities will be available for interested persons to review the present rates, the proposed rate, and the supporting studies and to submit written comments. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before July 26, 1982.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635.

FOR FURTHER INFORMATION CONTACT:

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, (404) 283-3261.

SUPPLEMENTARY INFORMATION: The Federal Power Commission by order issued February 18, 1976, in Docket No. E-7002, confirmed and approved Wholesale Power Rate Schedules KP-1-B, KP-2-B and JHK-1-B applicable to Kerr-Philpott Projects' power for a period ending June 30, 1980. Subsequently on January 29, 1981, and March 19, 1982, in Docket Nos. EF80-3041 and EF81-3041, respectively, the Federal Energy Regulatory Commission extended approvals of Rate Schedules KP-1-B and KP-2-B and approved Rate Schedule JHK-1-C as a substitute for JHK-1-B. The rate schedules are approved through September 30, 1982.

Additional time is needed to finalize written power marketing policy for the Kerr-Philpott System and to take other necessary actions to implement the policy.

It will also be necessary to adjust Rate Schedule JHK-1-C to pass through increased wheeling costs incurred by Southeastern to serve customers from the CP&L System. The adjusted Rate Schedule will be designated JHK-1-D.

DISCUSSION: Current plans anticipate that a written power marketing policy involving major changes in the ad hoc policy reflected in existing contracts will be issued during the period covered by the proposed rate extension and replacement contracts will be negotiated. This action will materially affect rates in the future. Therefore, it was determined to extend existing projects' rates for an additional six-month period even though a June 1982 system repayment study shows that a rate increase of up to 10 percent would be in order.

In the proposed Rate Schedule JHK-1-D, which will replace JHK-1-C, the wheeling charge has been increased to reflect additional wheeling costs which Southeastern must bear. The monthly rate computed so as to distribute the increased costs ratably over the 30,000 kilowatts of capacity sold affected customers is $0.72 per kilowatt of contract demand. The monthly wheeling charge in Rate Schedule JHK-1-C is $0.56 per kilowatt. The unaffected rates for Southeastern power are a monthly capacity charge of $1.25 per kilowatt of contract demand and an energy charge of 5.0 mills per kilowatt-hour. At the time that new rates are developed consonant with a new power marketing policy, all costs will be reanalyzed, and rates will be both designed and established to appropriately reflect all applicable costs.

The referenced June 1982 system repayment study along with previous system repayment studies are available for examination at the Samuel Elbert Building, Elberton, Georgia 30635. The proposed rate schedules applicable to the extension period are also available.

Issued at Elberton, Georgia, June 14, 1982.

Harry C. Geisinger,

Administrator.

[FR Doc. 82-16733 Filed 6-21-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 2146-3]

North Carolina Pretreatment Program Approval

AGENCY: EPA.

ACTION: Notice of Approval of the National Pollutant Discharge Elimination System Pretreatment Program of the State of North Carolina.

SUMMARY: On June 14, 1982, the Environmental Protection Agency approved the State of North Carolina's National Pollutant Discharge Elimination System State Pretreatment Program. This action authorizes the State of North Carolina to administer the National Pretreatment Program as it applies to municipalities and industries within the State.

FOR FURTHER INFORMATION CONTACT: George E. Young, Permits Division (EN-336), U.S. Environmental Protection

[10] *See* order issued March 22, 1982, 18 FERC ¶61,343.

Agency, 401 M Street, SW., Washington, D.C. 20460, 202–426–4793.

SUPPLEMENTARY INFORMATION:

Background

The Pretreatment Program, required by the Clean Water Act of 1977, governs the control of industrial wastes introduced into Publicly Owned Treatment Works (POTWs). The objectives of the Pretreatment Program are to: (1) Prevent introduction of pollutants into POTWs which will interfere with the operation of a POTW, including interference with its use or disposal of municipal sludge; (2) prevent the introduction of pollutants into POTWs which will pass through treatment works or otherwise be incompatible with such works; (3) improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges. Local pretreatement programs will be the primary vehicle for administering, applying and enforcing pretreatment standards for industrial users of POTWs. To receive pretreatment program approval a State must submit to the EPA a modification to its NPDES program pursuant to the requirements and procedures of the General Pretreatment Regulation (40 CFR Part 403).

Federal Register Notice of Approval of State NPDES Programs or Modifications

Under the Consolidated Permit Regulations (45 FR 33290, May 19, 1980), EPA will provide **Federal Register** notice of any action by the Agency Approving or modifying a State NPDES program. The following table will provide the public with an up-to-date list of the status of NPDES permitting authority throughout the country.

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program
Alabama	10/19/79	10/19/79	10/19/79
California	05/14/73	05/05/78	
Colorado	03/27/75		
Connecticut	09/26/73		06/03/81
Delaware	04/01/74		
Georgia	06/28/74	12/08/80	03/12/81
Hawaii	11/28/74	06/01/79	
Illinois	10/23/77	09/20/79	
Indiana	01/01/75	12/09/78	
Iowa	08/10/78	08/10/78	06/03/81
Kansas	06/28/74		
Maryland	09/05/74		
Michigan	10/17/73	12/09/78	
Minnesota	06/30/74	12/09/78	07/16/79
Mississippi	05/01/74		05/13/82
Missouri	10/30/74	06/26/79	06/03/81
Montana	06/10/74	06/23/81	
Nebraska	06/12/74	11/02/79	
Nevada	09/19/75	08/31/78	
New Jersey	04/13/82	04/13/82	04/13/82
New York	10/28/75	06/13/80	06/14/82
North Carolina	10/19/75		
North Dakota	06/13/75		
Ohio	03/11/74		
Oregon	09/26/73	03/02/79	03/12/81
Pennsylvania	06/30/78	06/30/78	
South Carolina	06/10/75	09/26/80	04/09/82
Tennessee	12/28/77		
Vermont	03/11/74		03/16/82
Virgin Islands	06/30/74		
Virginia	03/31/75	02/09/82	
Washington	11/14/73		
West Virginia	05/10/82	05/10/82	05/10/82
Wisconsin	02/04/74	11/26/79	12/24/80
Wyoming	01/30/75	05/18/81	

Review Under Executive Order 12291 and the Regulatory Flexibility Act

The Office of Management and Budget has exempted this action from the OMB review requirements of Executive Order 12291 pursuant to Section 8(b) of that Order.

Pursuant to Section 605(d) of the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.)*, I certify that this State Pretreatment Program Approval will not have a significant impact on a substantial number of small entities. Approval of the North Carolina NPDES State Pretreatment Program establishes no new substantive requirements, but merely transfers responsibility for administration of the program from EPA to the State.

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-16789 Filed 6-21-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS 140011; TSH-FRL No. 2152-5]

Life Systems, Inc.; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractor, Life Systems, Inc. (LSI) of Cleveland, Ohio, information which has been or will be submitted by manufacturers and importers under sections 4, 5 and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed to be confidential. LSI will review this information and use it to assist EPA to perform health and environmental hazard and/or risk assessments of premanufacture chemicals, chemicals which may require testing to determine risk, and chemicals which may require regulation, and to evaluate test data submitted to EPA.

DATE: The transfer of data submitted to EPA and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–511, 401 M St., SW, Washington, D.C. 20460, Toll-free: (800–424–9065). In Washington, D.C.: (554–1404), Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: Under TSCA, EPA must determine whether or not certain chemical substances or mixtures may present an unreasonable risk of injury to health or the environment from their manufacture, processing, distribution in commerce, use, or disposal. As a component of the unreasonable risk determination, the Agency must determine whether or not there is potential for a health and/or environmental hazard or risk from exposure to the substances or mixtures in question. To accomplish this, EPA will require the assistance of outside experts. Life Systems, Inc. of Cleveland, Ohio, is assisting EPA in determining if there is potential health and/or environmental hazard or risk from exposure to certain chemical substances or mixtures (Contract No. 68–01–6554).

Under 40 CFR 2.306(j), EPA has determined that it may need to disclose confidential business information to Life Systems, Inc. Under the terms of the contract, EPA will provide LSI with information submitted in premanufacturing notices (PMNs) on chemical identity, product formulation, and specific processes used to manufacture or process new chemical substances, as well as other information related to the uses, release rates, exposure levels, and assessment of potential hazard and/or risk to health and the enviroment of new chemical substances. In addition, EPA may provide LSI with similar information on chemical subtances obtained from tests performed by industry in response to a future section 4 test rule or from the TSCA Initial Inventory of Chemical Substances (section 8(b)) and submissions under future section 8(a) rules.

Under the EPA Contractor Requirements for the Control and Security of TSCA Confidential Business Information Security Manuals, LSI has been authorized to have access to this information. EPA has approved LSI

Security Plan and has conducted the required inspection of the LSI facilities and found them to be in compliance with the provisions of the Contractor Requirements for the Control and Security of TSCA Confidential Business Information Security Manuals.

Since LSI will review information claimed to be confidential, EPA is publishing this notice to inform all submitters of PMNs, section 4 test data, inventory (section 8(b)), and section 8(a) information that LSI will receive confidential business information from EPA. After completing the health and environmental hazard and/or risk assessments, LSI will return all confidential business information to EPA.

The LSI personnel will be required to sign a nondisclosure agreement before they are permitted access to such information. LSI is required to treat all confidential business information in accordance with the requirements of the TSCA Confidential Business Information Security Manual and the Contractor Requirements for the Control and Security of TSCA Confidential Business Information Manual.

Dated: June 9, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-16788 Filed 6-21-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Comments Dates Established for Declaratory Ruling Petition Requesting Preemption of State Prescribed Depreciation Rates

On June 7, 1982, General Telephone Company of Ohio (General) Filed a Petition for Declaratory Ruling with the Federal Communications Commission. The petition requests that the Commission issue a ruling declaring that section 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 220(b), preempts inconsistent depreciation rate prescriptions of the Public Utilities of Commission Ohio (PUCO).

The petition was precipitated by an April 26, 1982 action of the PUCO in which it rejected General requests to utilize remaining life and equal life group depreciation methods for intratstate regulatory purposes. The PUCO instead prescribed new depreciation accrual rates based on the whole life method effective May 1, 1982. This is in contrasts to the action of this Commission's authorization of remaining life depreciation rates on January 28, 1982, and equal life group rates on February 3, 1982, for General. General states that this divergence in depreciation methods results in a seven million dollar smaller depreciation accrual for the intrastate jurisdiction. General submits that the action of the PUCO frustrates policies this Commission had adopted in the capital recovery area, and that the Commission should therefore preempt the PUCO's order.

On June 7, 1982, the American Telephone and Telegraph Co. (AT&T) filed a Petition for Reconsideration requesting that the Commission reconsider its April 27, 1982, decision in Docket 79-105, FCC 82-155. That decision held that section 220 of the Act does not automatically preclude state regulatory commissions from prescribing different accounting and depreciation practices for intrastate purposes where such action did not frustrate the national telecommunications policy. AT&T argues that the Commission should reconsider this decision and find that state commissions are required to follow this Commission's expensing rules for intrastate regulatory purposes.

The Petition for Declaratory Ruling and the Petition for Reconsideration both relate to the Commission's preemptive jurisdiction under section 220. Accordingly, persons interested in responding to General's Petition for Declaratory Ruling may file comments on or before the fifteenth day following public notice in the **Federal Register** of the American Telephone and Telegraph Co.'s Petition for Reconsideration. Replies to oppositions may be filed within ten (10) days of the date of which oppositions are due. Parties filing in opposition to both petitions may cross-reference their filings where appropriate. As required by § 1.52(c)(1) of the Commission's rules, an original and nine (9) copies shall be filled with the Secretary, Federal Communications, Commission, Washington, D.C. 20554. For further information contact Douglas Slotten, (202) 632-9342.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82-16786 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 78-253]

Radio Broadcast Services; Order Extending Time for Filing Oppositions To Petition for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration; For filing oppositions.

SUMMARY: Action taken extends the time for filing oppositions to a petition for reconsideration of the Commission's action concerning BC Docket No. 78-253. Additional time is given in response to a request filed by the Los Angeles County Sheriff. The additional time will minimize the number of pleadings that the parties must file.

DATE: Replies must be filed on or before the date replies are due to the last timely filed petition for reconsideration. In no event will petitions be due before July 2, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Edythe Wise, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of an inquiry into the future role of low power television broadcasting and television translators in the National Telecommunications System BC Docket 78-253.

Order Extending Time for Filing Oppositions To Petition for Reconsideration

Adopted: June 10, 1982.

Released: June 15, 1982.

By the Chief, Policy and Rules Division:

1. On May 11, 1982, notice of the filing of a petition for reconsideration by the Los Angeles County Sheriff concerning the above captioned proceeding was published in the **Federal Register**, 47 FR 20185. Oppositions were due to be filed on May 26, 1982.

2. On May 25, 1982, counsel for the Association of Maximum Service Telecasters, Inc. filed a request for an extension of time to file an opposition until after all potential petitions for reconsideration have been filed. Counsel states that the extension would expedite this proceeding by allowing the parties and the Commission to review and respond to all the petitions for reconsideration in this proceeding as a consolidated group.

3. Section 1.46(b) of the Commission's rules states that extension requests must be filed seven days in advance of the filing deadline. However, since the Commission believes it would be in the public interest to extend the date so that the parties can minimize the number of pleadings that they must file, and since there is no opposition, we will grant the additional time.

4. Accordingly, it is ordered, that the time for filing oppositions to all petitions for reconsideration in BC Docket No. 78-253 is extended to the date replies are

due to the last timely filed petition for reconsideration. In no event will oppositions be due before July 2, 1982.[1]

5. 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 §§ 0.281 and 0.204(b) of the Commission's rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-16810 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 12, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 10051-6.

Filing party: John R. Attanasio, Esquire, Billig, Sher & Jones, P.C., 2033 K Street NW., Washington, D.C. 20006.

Summary: Agreement No. 10051-6 is a proposal by the parties to the Mediterranean Force Majeure Agreement to extend the duration of the agreement indefinitely beyond its December 13, 1982, expiration date, and to further define the circumstances under which the authority of the agreement may be invoked.

Agreement No. 10452.

Filing party: Joseph H. Dettmar, Esquire, Garvey, Schubert, Adams & Barer, 1000 Potomac Street NW., Washington, D.C. 20007.

Summary: Agreement No. 10452 establishes a nonexclusive equipment interchange agreement between Totem Ocean Trailer Express, Inc. (TOTE) and Yamashita-Shinnihon Steamship Company, Ltd., providing for the interchange of empty and loaded equipment in the Far East/United States trade.

Agreement No. 10453.

Filing party: Seymour H. Kligler, Esquire, Brauner Baron Rosenzweig Kligler Sparber & Bauman, 120 Broadway, New York, New York, 10271.

Summary: Agreement No. 10453, between Empresa Lineas Maritimas Argentinas, S.A. (ELMA) and Bottacchi, S.A., de Navegacion C.F.I.I. (Bottacchi), establishes a space charter and sailing agreement in the trade between U.S. Atlantic and Brazil, Uruguay, Argentina and Paraguay. As compensation, the parties will, from time to time, agree on the rates to be paid for the breakbulk and container space chartered. The party which charters space in excess of that chartered by the other party from it, shall pay compensation at the agreed rates. Except as may be required by a conference or rate agreement to which a party may be a member, any party may charge such rates as it sees fit. ELMA and Bottacchi will cooperate with each other to rationalize sailings and to arrange advertising and sailing schedules. Each party may contract separately for its own stevedoring and terminal services. The agreement shall not become effective until it is approved by the Federal Maritime Commission and Secretaria Intereses Maritimos. The term of the agreement is for 5 years from the date the agreement becomes effective. However, the agreement may be terminated sooner upon at least 30 days' written notice by either party.

Dated: June 17, 1982.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-16759 Filed 6-21-82; 8:45 am]

BILLING CODE 6730-01-M

[1] We are specifying the July 2 date in the unlikely event that no further petitions for reconsideration are filed.

FEDERAL RESERVE SYSTEM

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 indispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First National Company*, Pikeville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Pikeville, Pikeville, Kentucky. Comments on this application must be received not later than July 16, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *SNB Bancshares, Inc.*, Eufaula, Oklahoma; to become a bank holding company by acquiring 51.6 percent of the voting shares of The State National Bank of Eufaula, Oklahoma. Comments on this application must be received not later than July 16, 1982.

Board of Governors of the Federal Reserve System, June 16, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16740 Filed 6-21-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Biometry and Epidemiology Contract Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract

Review Committee, National Cancer Institute, July 29–30, 1982, Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on July 29 from 9:00 a.m. to 9:30 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on July 29, from 9:30 a.m. to adjournment, and on July 30, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Wilna A. Wood, Executive Secretary, Biometry and Epidemiology Contract Review Commmittee, National Cancer Institute, Westwood Building, Room 822, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7153) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.398, project grants in cancer research manpower, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of the Circular)

Dated: June 3, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–16734 Filed 6–21–82; 8:45 am]

BILLING CODE 4140–01–M

Clinical Cancer Program Project Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Cancer Program Project Review Committee, National Cancer Institute, July 26–28, 1982, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20205. This meeting will be open to the public on July 26 from 8:30 a.m. to 10:00 a.m. for reports by the Director, NCI, and other staff members, and to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on July 26, from 10:00 a.m. to adjournment; July 27, from 8:30 a.m. to adjournment; and on July 28, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Louise G. Thomson, Executive Secretary, Clincial Cancer Program Project Review Commmittee, National Cancer Institute, Westwood Building, Room 809, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7924) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.397, project grants in cancer center support, National Insttitutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of the Circular)

Dated: June 3, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–16737 Filed 6–21–82; 8:45 am]

BILLING CODE 4140–01–M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, on July 29–30, 1982, at the Hyatt Palo Alto, 4290 El Camino Real, Palo Alto, California 94306.

This meeting will be open to the public from 8:00 p.m. to approximately 9:00 p.m. on July 29, 1982 to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on July 29, from approximately 9:00 p.m. to adjournment on July 30, for the review, discussion and evaluation of an individual grant application. The application and the discussions could reveal personal information concerning individuals associated with the application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under section 552b(c)(6) of Title 5, U.S. Code.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland, 20205, Building 31, Room 4A–21, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205, Room 548B, phone (301) 496–7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

Dated: June 3, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82–16738 Filed 6–21–82; 8:45 am]

BILLING CODE 4140–01–M

Large Bowel and Pancreatic Cancer Review Committee (Large Bowel Cancer Review Subcommittee); Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Large Bowel and Pancreatic Cancer Review Committee, (Large Bowel Cancer Review Subcommittee), National Cancer Institute, July 7–9, 1982, Houston Main Building, M.D. Anderson Hospital, Houston, Texas 77030. This meeting will be open to the public on July 7 from 7:30 p.m. to adjournment; July 8 from 8:00 to 9:00 a.m., and 7:30 p.m. to adjournment; and on July 9 from 8:30 a.m. to

adjournment. This portion of the meeting will include scientific presentations and discussions on biology, biochemistry and immunology, and colon cancer; and review of workshop planning and administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on July 8, from 9:00 a.m. to approximately 5:00 p.m., for the review, discussion and evaluation of individual grant applications. These applicant and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winidred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Vincent J. Cairoli, Executive Secretary, Large Bowel Cancer Review Subcommittee, National Cancer Institute, Blair Building, Room 7A05, National Institutes of Health, Bethesda, Maryland 20205 (301/427–8800) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Numbers 13.393, 13.394, 13.395, project grants in cancer cause and prevention; detection and diagnosis; and cancer treatment research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of the Circular)

Dated: June 3, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–16735 Filed 6–21–82; 8:45 am]

BILLING CODE 4140–01–M

Vision Research Program Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute, July 15 and 16, 1982, Conference Room 7, Building 31, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on July 15 from 8:30 a.m. to 9:00 a.m. for opening remarks and discussion of program guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:00 a.m. on July 15 until adjournment of July 16 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Carter, Committee Management Officer, National Eye Institute, Building 31, Room 6A–03, National Institutes of Health, Bethesda, Marylany 20205 (301) 496–4903, will provide summaries of the meeting and rosters of committee members.

Dr. Catherine Henley, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A–06, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–5561, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Reginal and Choroidal Diseases Reserach; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular)

Dated: June 3, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–16736 Filed 6–21–82; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part 45 FR 76518, November 19, 1980 and 47 FR 3206, January 22, 1982) is amended to reflect the establishment of the National Center for Drugs and Biologics (NCDB) by merging the functions from the Bureau of Biologics (BOB) and the Bureau of Drugs (BD) and abolishing those bureaus, as such. Combining both bureaus will allow the Bureau of Drugs to share in the Bureau of Biologics expertise in laboratory research and build a broader scientific base for making drug decisions. Widening the scope of the Bureau of Biologics research activities will enhance its status and increase its role in the scientific and medical communities. Combining the bureaus will allow FDA to shift additional resources to tasks which are required by law and involve significant public health risks. It will also provide for greater organizational accountability for projects on which the Secretary and the Commissioner place the greatest priority. The substructure of NCDB consists of: the Office of New Drug Evaluation, comprised of six divisions from BD; the Office of Drugs, comprised of nineteen divisions from BD; and the Office of Biologics, comprised of seven divisions from BOB. The Office of Management is established in the Office of the Director, NCDB, to provide administrative support to the Center.

Section HF–B, Organization and Functions is amended as follows:

1. Delete paragraph (1)(e11) and all subparagraphs for *Bureau of Drugs (HFG).*

2. Delete paragraph (r) and all subparagraphs for *Bureau of Biologics (HFB).*

3. Insert new paragraph (n), *National Center for Drugs and Biologics, (NFN)* reading as follows:

(n) *National Center for Drugs and Biologics (HFN).* Develops FDA policy with regard to the safety, effectiveness, and labeling of all drugs and biologicals for human use.

Plans and conducts research related to the development, manufacture, testing, and use of both new and old biological products to develop a scientific base for establishing standards designed to insure the continued safety, purity, potency, and efficacy of biological products.

Inspects manufacturers' facilities for compliance with standards, tests products submitted for release, establishes written and physical standards, and approves licensing of manufacturers to produce biological products.

Reviews and evaluates new drug applications (NDA's) and notices of claimed investigational exemption for new drugs (IND's).

Develop and implements standards for the safety and effectiveness of all over-the-counter (OTC) drugs.

Monitors the quality of marketed drugs and biologicals through product testing, surveillance, and compliance programs.

Develops and promulgates guidelines on current Good Manufacturing Practices for use by the biological and drug industry.

Develops and desseminates information and educational material dealing with biologicals and drugs to the medical community and the public in coordination with the Office of the Commissioner.

Conducts research and develops scientific standards on the composition, quality, safety, and efficacy of human drugs.

Collects and evaluates information on the effects and use trends of biologicals and marketed drugs.

Monitors prescription drug advertising and promotional labeling to assure their accuracy an integrity.

Analyzes data on accidental poisonings; disseminates toxicity and treatment information on household products and medicines.

(n–1) *Office of the Director (HFN1).* Promulgates, plans, administers, coordinates, and evaluates overall Center scientific, control, management, and regulatory programs, plans, and policies.

Provides leadership and direction for all Center activities.

Coordinates and directs the Center management, planning, and evaluation systems to assure optimum utilization of center manpower, money, and facilities.

(n–1–i) *Office of Management (HFN12).* Monitors the continuing development and operation of strategic planning systems for Center activities and resource allocation; advises the Center Director on Center administrative policies and guidelines and scientific and technical information systems and services.

Provides direction and counsel to Center managers through development and performance of program evaluation and technological forecasting.

Plans and directs all Center operations related to financial and personnal management, employee development and training, EEO activities, security, and safety management.

Manages facilities and laboratories and provides technical support to the Center.

Direct the Center's management and data systems, information services, and Freedom of Information (FOI) activities.

Manages the performance of research studies of Center operations designed to improve processes and resource allocations.

Advises the Center in the development of contract and grant proposals, including management, technical, and merit review.

(n–2) *Office of New Drug Evaluation (HFNA).* Reviews notices of claimed investigational exemptions for new drugs (IND's) and recommends appropriate action with respect to safety and efficacy of clinical trials.

Evaluates, for safety, and efficacy new durg applications (NDA's) and their supplements submitted by manufacturers for permission to market new drugs.

Evaluates manufacturing methods, controls, and facilities of manufacturers of drugs submitted for approval in NDA's.

Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports submitted by holders of NDA's under the records and reports requirements of the Federal Food, Drug, and Cosmetic Act.

Makes recommendations concerning withdrawal of approval of NDA's.

Reviews IND's and other applications for antibiotic drugs.

Performs medical and scientific evaluations of submissions received from the drug industry on generic drugs, drugs under monograph, and over-the-counter drug products.

Manages and coordinates the scientific and technical activities of advisory committees, consultants, and experts.

(n–2–i) *Office of the Director (HFNA1).* Directs all Office activities and coordinates and establishes Office policies for NDA's and IND's.

Provides administrative support to the Office.

(n–2–ii) *Division of Anti-infective Drug Products (HFNAA).* Performs the IND/NDA review process with regard to anti-infective, dermatologic, ophthalmologic, and antibiotic drug products; develops related policy applying to this category of drug products.

Reviews notices of claimed investigational exemption for new drugs (IND's) and recommends action including approval of research plans and protocols, modifications, restrictions, or disapproval.

Evaluates, for safety and effectiveness, new drug applications (NDA's) submitted by manufacturers for permission to market new drugs.

Evaluates adequacy of directions for use and warning in proposed labeling.

Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports, submitted by an applicant under the records and reports requirements, of all drugs for which an approved NDA is in effect.

Evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new drugs.

Makes recommendations concerning withdrawal of approval of NDA's.

Provides advice and serves as the primary source of information within FDA on anti-infective, dermatologic, ophthalmologic, and antibiotic drug products with regard to the status of these drug applications, existing policy decisions, proposed regulatory actions, and the state of product development.

(n–2–iii) *Division of Cardio-Renal Drug Products (HFNAB).* Performs the IND/NDA review process with regard to cardiac, anti-hypertensive/renal, and gastro-intestinal drug products; develops related policy applying to this category of drug products.

Performs the IND/NDA review process with regard to cardiac, anti-hypertensive/renal, and gastro-intestinal drug products; develops related policy applying to this category of drug products.

Reviews notices of claimed investigational exemption for new drugs (IND's) and recommends action including approval of research plans and protocols, modifications, restrictions, or disapproval.

Evaluates, for safety and effectiveness, new drug applications (NDA's) submitted by manufacturers for permission to market new druts.

Evaluates adequacy of directions for use and warning in proposed labeling.

Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports, submitted by an applicant under the records and reports requirements, of all drugs for which an approved NDA is in effect.

Evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new drugs.

Makes recommendations concerning withdrawal of approval of NDA's.

Provides advice and serves as the primary source of information within FDA on cardiac, anti-hypertensive/renal, and gastro-intestinal drug products with regard to the status of these drug applications, existing policy

decisions, proposed regulatory actions, and the state of product development.

(n–2–iv) *Division of Surgical-Dental Drug Products (HFNAC).* Performs the IND/NDA review process with regard to surgical, dental, and pulmonary-anesthesia drug products; develops related policy applying to this category of drug products.

Reviews notices of claimed investigational exemption for new drugs (IND's) and recommends action including approval of research plans and protocols, modifications, restrictions, or disapproval.

Evaluates, for safety and effectiveness, new drug applications (NDA's) submitted by manufacturers for permission to market new drugs.

Evaluates adequacy of directions for use and warning in proposed labeling.

Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports, submitted by an applicant under the records and reports requirements, of all drugs for which an approved NDA is in effect.

Evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new drugs.

Makes recommendations concerning withdrawal of approval of NDA's.

Provides advice and serves as the primary source of information within FDA on surgical, dental, and pulmonary-anesthesia drug products with regard to the status of these drug applications, existing policy decisions, proposed regulatory actions, and the state of product development.

(n–2–v) *Division of Metabolism and Endocrine Drug Products (HFNAD).* Performs the IND/NDA review process with regard to obstetric, gynecological, and all other metabolic and endocrine drug products; develops related policy applying to this category of drug products.

Reviews notices of claimed investigational exemption for new drugs (IND's) and recommends action including approval of research plans and protocols, modifications, restrictions, or disapproval.

Evaluates, for safety and effectiveness, new drug applications (NDA's) submitted by manufacturers for permission to market new drugs.

Evaluates adequacy of directions for use and warning in proposed labeling.

Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports, submitted by an applicant under the records and reports requirements, of all drugs for which an approved NDA is in effect.

Evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new drugs.

Makes recommendations concerning withdrawal of approval of NDA's.

Provides advice and serves as the primary source of information within FDA on obstetric, gynecological, and all other metabolic and endocrine drug products with regard to the status of these drug applications, existing policy decisions, proposed regulatory actions, and the state of product development.

(n–2–vi) *Division of Neuropharmacological Drug Products (HFNAE).* Performs the IND–NDA review process with regard to neurological, psycho-pharmacological, and drug abuse drug products; develops related policy applying to this category of drug products.

Reviews notices of claimed investigational exemption for new drugs (IND's) and recommends action including approval of research plans and protocols, modifications, restrictions, or disapproval.

Evaluates, for safety and effectiveness, new drug applications (NDA's) submitted by manufacturers for permission to market new drugs.

Evaluates adequacy of directions for use and warning in proposed labeling.

Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports, submitted by an applicant under the records and reports requirements, of all drugs for which an approved NDA is in effect.

Evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new drugs.

Makes recommendations concerning withdrawal of approval of NDA's.

Provides advice and serves as the primary source of information within FDA on neurological, psychopharmacological, and drug abuse products with regard to the status of these drug applications, existing policy decisions, proposed regulatory actions, and the state of the product development.

Serves as the FDA resource on drug abuse information. Evalutes investigational and marketed drugs for abuse potential as requested by IND/NDA review staffs. Recommends special studies or safeguards.

Recommends drugs for addition to, removal from, or transfer within schedules provided by the Comprehensive Drug Abuse Prevention and Control Act of 1970.

N–2–vii) *Division of Oncology and Radiopharmaceutical Drug Products (HFNAG).* Performs the IND/NDA review process with regard to oncology, radiopharmaceutical, and anti-inflammatory drug products; develops related policy applying to this category of drug products.

Reviews notices of claimed investigational exemption for new drugs (IND's) and recommends action including approval of research plans and protocols, modifications, restrictions, or disapproval.

Evaluates, for safety and effectiveness, new drug applications (NDA's) submitted by manufacturers for permission to market new drugs.

Evaluates adequacy of directions for use and warning in proposed labeling.

Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports, submitted by an applicant under the records and reports requirements, of all drugs for which an approved NDA is in effect.

Evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new drugs.

Makes recommendations concerning withdrawal of approval of NDA's.

Provides advice and serves as the primary source of information within FDA on oncology, radiopharmaceutical, and anti-inflammatory drug products with regard to the status of these drug applications, existing policy decisions, proposed regulatory actions, and the state of product development.

(n–3) *Office of Drugs (HFNB).* Develops and implements standards for the safety and effectiveness of all over-the-counter (OTC) drugs.

Monitors the quality of marketed drugs through product testing, surveillance, and compliance programs.

Develops and promulgates guidelines on current Good Manufacturing Practices for use by the drug industry.

Develops and disseminates information and educational material dealing with drugs to the medical community and the public, in coordination with the Office of the Commissioner.

Conducts research and develops scientific standards on the composition, quality, safety, and efficacy of human drugs.

Collects and evaluates information on the effects and use trends of marketed drugs.

Monitors prescription drug advertising and promotional labeling to assure their accuracy and integrity.

Analyzes data on accidental poisonings; disseminates toxicity and

treatment information on household products and medicines.

Evaluates applications for operation of methadone treatment centers and other activities using methadone or other drugs.

Directs the FDA antibiotic and insulin certification program.

(n–3–i) *Office of the Director (HFNB1).* Directs all Office activities and coordinates and establishes all Office policies.

Provides administrative support to the Office.

(n–3–ii) *Division of Methadone Monitoring (HFNBA).* Develops the basic strategy for and approves, directs, coordinates, and monitors compliance programs for drugs requiring special controls over the conditions of use.

Evaluates field report submissions, including inspections, investigations, and recommendations for compliance actions; recommends, directs, and/or coordinates case development and contested case assistance in the handling of compliance actions.

Evaluates applications for the establishment of treatment centers and other activites which plan to use methadone or other drugs requiring special controls over the conditions of use; monitors and evaluates the medical and scientific quality of treatment.

Develops and/or reviews regulations to control and monitor the usage of methadone and other such drugs.

Coordinates drug use monitoring programs with Federal, State, and local agencies.

Conducts training seminars for industry and Federal, State, and local health officials on drug usage control practices in coordination with the Executive Director of Regional Operations.

(n–3–iii) *Division of Drug Quality Evaluation (HFNBB).* Develops and directs drug quality evaluation programs, including surveillance and mandatory and voluntary drug certification; coordinates with other compliance divisions as necessary.

Monitors and evaluates nationwide drug product quality through the development and maintenance, in coordination with Center systems design specialists, of information systems containing data about drug products and manufacturers and problems that occur with both.

Evaluates drug product quality data for trends and other uses and identifies new areas for potential FDA responsibility or action.

Directs such field actions as investigations and inspections in response to problems identified by drug quality evaluation programs; recommends, directs, or coordinates case development and compliance activities resulting from these actions.

Coordinates with other Center components to exchange drug quality data and advise them on drug quality evaluation programs.

(n–3–iv) *Division of Drug Labeling Compliance (HFNBC).* Develops the basis strategy for and approves, directs, coordinates, and monitors compliance programs issued to implement NAS/NRC Drug Efficacy Study Implementation (DESI) announcements, OTC and other drug monographs, and for drugs not covered under specific regulations or announcements.

Evaluates field report submissions, including inspections, investigations, and recommendations for compliance actions; recommends, directs, and/or coordinates case development and contested case assistance in the handling of compliance actions regarding drug labeling compliance.

Notifies firms regarding the status of their drugs under specific DESI announcements and OTC and other drug monographs.

Directs the FDA Drug Product Listing and Establishment Registration program.

(n–3–v) *Division of Drug Quality Compliance (HFNBD).* Develops the basic strategy for and approves, directs and monitors drug quality compliance; coordinates drug quality compliance program strategy with other compliance divisions, as necessary.

Develops and coordinates Agency compliance policy for enforcement of the law with regard to drug quality assurance.

Evaluates field report submissions; recommends, directs, and/or coordinates case development and contested case assistance in the handling of compliance actions regarding drug quality assurance.

Develops, coordinates, reviews, and revises Current Good Manufacturing Practice (CGMP) regulations and other regulations concerning drug product quality and provides for their uniform interpretation.

Acts as focal point for information on compliance with CGMP for New Drug Applications (NDA's), Abbreviated New Drug Applications (ANDA's), supplements, and drug certification evaluations.

Provides expertise on requirements for compliance with CGMP's including education and information activities in conjunction with other Agency units, trade associations, and academic groups to promote a better understanding of the requirements and objectives of the laws and regulations regarding CGMP and to encourage compliance on a voluntary basis.

(n–3–vi) *Division of Drug Advertising and Labeling (HFNBE).* Monitors and evaluates prescription drug promotion.

Coordinates with other Center components to determine the compliance activity of the industry for prescription drug labeling.

Formulates and establishes policy for prescription drug labeling including professional labeling and patient package inserts and regulation of prescription drug promotion including advertisements, promotional labeling, and promotional practices.

Prepares, coordinates the review of, and implements special types of drug labeling such as generic, class, and patient package insert labeling.

Reviews for consistency with general labeling requirments and guidelines, labeling for new therapeutic entities and for previously marketed drugs about to be approved for major new indications.

Initiaties or recommends administrative action to remedy violative prescription drug promotion, recommends field investigations, assists in the preparation of prospective cases.

Plans and supervises studies to evaluate the impact of patient package inserts, prescription drug promotion, and remedies for violative prescription drug promotion.

Plans and develops various informational and educational resources for health professionals, consumers, and FDA staff including a drug labeling manual, miscellaneous publications, symposia, and seminars.

Provides guidance and support in formulation of guidelines and regulations for prescription drug labeling and promotion.

Provides guidance to New Drug Evaluation Divisions, and to the Division of Generic Drug Monographs to assure quality, consistency, and timeliness in labeling of drugs during the premarketing and postmarketing periods.

(n–3–vii) *Division of Scientific Investigations (HFNBG).* Implements the Agency's Bio-research Monitoring Program for Human Drugs.

Develops standards for the conduct of clinical and preclinical investigations performed to demonstrate the safety and effectiveness of drugs.

Designs and operates surveillance and compliance programs in the area of preclinical and clinical drug investigations.

Assigns, directs, and coordinates onsite inspections of sponsors and investigators of preclinical and clinical drug studies, institutional review

committees, and commerical clinical testing facilities in collaboration with FDA's field organization.

Coordinates preclinical and clinical drug investigation activities within and outside the Center to promote maximum utilization of resources and consistency of policies.

Evaluates investigation reports and initiates administrative and regulatory corrective measures as necessary.

Plans and conducts educational and informational activities with regard to standards for preclinical and clinical drug investigations.

(n–3–viii) *Division of Drug Information Resources (HFNBH).* Operates systems for the collection, processing, and retrieval of information required to meet research and operating needs.

Reviews, abstracts, and retrieves scientific and technical information contained in drug applications and other scientific documents.

Provides data input services within the Center and coordinates operational data processing activities.

Creates and maintains data files for medical and scientific purposes.

(n–3–ix) *Division of Information Systems Design (HFNBJ).* Designs, implements, and monitors management scientific/technical information systems for the Center.

Establishes and monitors implementation of Center policies regarding all Center automated data processing activities including planning, contracts, epuipment and software procurement, training, and utilization of automatic data processing (ADP) systems and facilities.

Serves as the Center point of contact with the Agency's ADP operations.

Develops dictionaries, listings of terms, and thesauri to assure standardization of terminology within Center information systems.

Maintains overall center responsibility for the FDA Chemical Structure File and conducts research on the design of systems and routines for chemical substructure searching.

(n–3–x) *Medical Library (HFNBK).* Acquires, catalogs, and disseminates pharamaco-medical and scientific information for use by Center and FDA scientists and administrators.

Provides manual and automated services in support of compiling and disseminating medical and scientific information.

Serves as liaison with drug and other information centers outside of FDA, such as the National Library of Medicine.

(n–3–xi) *Division of Biometrics (HFNBL).* Provides comprehensive statistical and biomathematical services to Center programs.

Conducts research and development in statistical, biomathematical, and other scientific decisionmaking methodologies.

Evaluates and applies new statistical methodologies in support of scientific decisions.

Develops statistical methodologies for analyzing epidemiological data and collaborates with other Center units on such methodologies to be used in intramural and extramural programs.

Develops computational computer programs.

(n–3–xii) *Division of Poison Control (HFNBM).* Promotes the establishment of and provides technical support to State and local governments in the creation and maintenance of poison control centers. Furnishes information to such centers concerning the treatment of toxic, hazardous, and caustic substances that may be ingested.

Collects, evaluates, and disseminates clinical and statistical data concerning the toxic effects of drugs, chemicals, and hazardous household substances on humans and animals.

Evaluates reports on injuries and fatalities resulting from accidental ingestion of household substances, medicines, and other chemicals; identifies cases of special interest and pursues further field investigations.

Analyzes date to determine products causing injuries to children and recommends within FDA and to the Consumer Products Safety Commission, those drugs and substances requiring child resistent packaging or special precautionary labeling as required by Federal legislation.

Conducts and supports research on treatment of ingested toxic substances, on product modifications considered necessary to reduce their injury-producing characteristics, and on prevention techniques.

Provides medical support in developing warning and first aid statements for hazardous and potentially hazardous substances.

Develops and implements, in coordination with the Office of the Commissioner, education and information programs designed to reduce accidental poisonings.

(n–3–xiii) *Division of Drug Experience (HFNBN).* Develops and implements systems for the acquisition of data concerning drug experience and drug use trends; evaluates and disseminates such information to the Center and other organization within FDA.

Plans and conducts the research and development activities to evaluate and determine optimal media and techniques to meet the needs of health professionals and consumers concerning drug usage information.

Develops and monitors contracts to acquire drug experience data.

Evaluates socioeconomic implications of drug usage information.

Participates in World Health Organization programs to implement an international drug monitoring system.

(n–3–xiv) *Division of OTC Drug Evaluation (HFNBP).* Identifies and classifies over-the-counter (OTC) drugs into categories for review by appropriate panels; coordinates the collection of safety and effectiveness data on drugs to be reviewed.

Coordinates the establishment of, and provides technical and clerical support to, over-the-counter (OTC) advisory panels which make recommendations on standards for OTC drugs).

Receives, controls, and screens all OTC drug submissions including protocols; notifies sponsor of inadequate or deficient data; schedules and participates in industry/agency conferences.

Notifies Center components of OTC panel recommendations; obtains concurrence for final OTC recommendations from respective reviewing Center components.

Provides information regarding OTC advisory panel activities; assists in preparing official summary minutes, information memoranda, panel reports, and drug monographs.

Recommends Center actions based on OTC advisory panel evaluations.

Coordinates the development of each proposed, tentative final, and final drug monograph; provides technical assistance as required in implementing final drug monographs.

Develops and implements, in coordination with the Office of the Commissioner, consumer and professional educational programs including formal presentations relating to the OTC drug program; participates in Agency sponsored OTC drug consumer education programs.

(n–3–xv) *Division of Biopharmaceutics (HFNBQ).* Evaluates bioavailability and pharmacokinetic protocols and data in notices of claimed investigational exemption for new drugs (IND's), abbreviated new drug applications (ANDA's), new drug applications (NAD's), antibiotic application (Forms 5 and 6), and their supplements and amendments.

Approves, disapproves, or recommends new bioavailability and pharmacokinetic studies and/or protocols.

Identifies potential bioavailability problems and prepares protocols and guidelines for conducting bioavailability studies.

Reviews and evaluates drug disposition data, dosing regimen, and specialized drug delivery systems to assure bioavailability of drugs.

Coordinates the establishment of and provides technical and clerical support to biopharmaceutic advisory panels.

Assists in developing or revising drug monographs on the basis of bioavailability data.

Initiates, monitors, and conducts intramural biopharmaceutic research; identifies extramural research needs; initiates, monitors, and coordinates extramural research contracts with in-house activities.

(n–3–xvi) *Division of Generic Drug Monographs (HFNBR).* Evalutes medical and scientific data and determines approvability of original and amended abbreviated new drug applications (ANDA's), abbreviated antibiotic applications (Form 6), and their supplements.

Recommends withdrawal of approval of ANDA's.

Coordinates the review of ANDA and abbreviated antibiotic bioavailability protocols and resultant studies with the Division of Biopharmaceutics.

Serves as the primary source for information on current labeling, methods validation, and establishment inspection reports of ANDA's, abbreviated antibiotic applications, and old drug monographs.

Coordinates development and provides scientific inputs to generic drug monographs and subsequent revisions.

Evalutes the nonmedical aspects of human drug products for abbreviated antibiotic applications and their supplements.

Recommends and reviews regulations concerning human antibiotic products.

(n–3–xvii) *Division of Drug Biology (HFNBS).* Provides expert advice to the drug review divisions and other scientific and regulatory units of the Center on drug pharmacology and toxicology.

Plans and conducts research to investigate the utility of diverse animal and biochemical systems for the assay of drug products; performs bioassays by official and nonofficial methods to determine drug potency including testing insulin for the certification program.

Correlates bioanalytical findings with results of newly devised physicochemical methods of drug analysis in conjunction with the Division of Drug Chemistry.

Devises biological methods for the study and analysis of drugs.

Plans and conducts research to investigate the nature and properties of pharmacologically significant substances in biological systems.

Conducts research to investigate the metabolism of drugs, the mechanisms and identify of adverse drug reactions, the interactions between drugs and between drugs and chemicals in the environment, the neuroendocrine relationships, and the effects of drugs on behavior.

(n–3–xviii) *Division of Drug Chemistry (HFNBT).* Provides expert advice to the drug review divisions and other scientific and regulatory units of the Center on the chemistry of drugs and the methods of physicochemical identification of drugs and conducts special investigations upon request.

Appraises and improves current and proposed drug standards and specifications; validates NDA analytical procedures and reviews validation data from field laboratories.

Investigates the principles underlying the chemical reactions employed in the analysis of drugs.

Proposes and establishes specifications to standardize drugs and reference substances and cooperates with the United States Pharmacopoeia (USP), the National Formulary (NF), and the Association of Official Analytical Chemists (AOAC) in preparing official drug monographs which incorporate these specifications.

Participates in collaborative studies to test the validity of analytical methods proposed for adoption by the USP, NF, and AOAC. Plans and conducts research to devise new methods to detect, isolate, and disclose the chemical nature of potent and toxic substances occurring in drug products.

Plans and conducts research to investigate the utility of electronic, optical, radiometric, and other physicochemical instruments for the analysis of drugs.

Devises new methods for the examination of individual drugs that present analytical problems in accepted procedures and for the examination of minute drug quantities; subjects these new methods to collaborative study.

(n–3–xix) *National Center for Drug Analysis (HFNBU).* Tests large numbers of drug samples obtained through surveillance programs, FDA field consumer safety officers, and other Federal agencies to obtain drug analysis data for use by the review divisions and other scientific and regulatory units of the Center.

Devises new automated methods for the rapid analysis of large numbers of drug dosage forms; establishes and maintains the Drug Autoanalysis Manual.

Devises new methods and develops and/or acquires new equipment for the examination of individual drugs which present analytical problems in accepted procedures and new methods for the analysis of minute drug quantities of single dosage entities; subjects these new methods to collaborative study.

Participates in collaborative studies to test the validity of analytical methods proposed for adoption by the United States Pharmacopoeia (USP), National Formulary (NF), and Association of Official Analytical Chemists (AOAC).

Cooperates with the USP and NF in testing drug reference substances (other than antibiotics) for compliance with specifications.

(n–3–xx) *National Center for Antiobiotics Analysis (HFNBV).* Tests large numbers of antibiotic samples obtained through the certification program, surveillance programs, or other Federal agencies; provides expert advice on the analysis of the samples to the review divisions and other scientific and regulatory units of the Center.

Plans and conducts research on new and improved methods for the rapid analysis of large numbers of antibiotic samples and for the examination of individual antibiotics; subjects these new methods to collaborative study.

Devises and applies new methods for the analysis of antibiotic residues in tissues, body fluids, and other substances.

Plans and conducts research to determine the nature, extent, and significance of microbial, microscopic and other contaminants of drugs and investigates their effects on biological systems.

Participates in collaborative studies to test the validity of analytical methods proposed for adoption by the United States Pharmacopoeia (USP), National Formulary (NF), and Association of Official Analytical Chemists (AOAC) or in Antibiotic Forms 5 and 6.

Reviews and validates the analytical procedures included in Antibiotic Forms 5 and 6; assists in developing monographs for inclusion in the Code of Federal Regulations.

Cooperates with the World Health Organization (WHO), USP, and NF in testing and establishing reference standard drug substances for use in antibiotic analysis.

Tests, establishes, and maintains a collection of authenticated official antibiotic reference standard drug substances for distribution to FDA field laboratories, other Federal agencies, and

to industry participants in the Antibiotic Certification Program.

(n–4) *Office of Biologics (HFNC).* Administers regulation of biological products under the biological product control provisions of the Public Health Service Act and applicable provisions of the Federal Food, Drug, and Cosmetic Act.

Inspects manufacturers' facilities for compliance with standards, tests products submitted for release, establishes written and physical standards, and approves licensing of manufacturers to produce biological products.

Plans and conducts research related to the development, manufacture, testing, and use of both new and old biological products to develop a scientific base for establishing standards designed to insure the continued safety, purity, potency, and efficacy of biological products.

Administers applicable provisions of the Federal Food, Drug, and Cosmetic Act as they pertain to human drugs that are biological products.

In carrying out these functions, cooperates with other bureaus of FDA, other PHS organizations, governmental and international agencies, volunteer health organizations, universities, individual scientists, nongovernmental laboratories, and manufacturers of biological products.

(n–4–i) *Office of the Director (HFNCI).* Directs all Office activities and coordinates and establishes all Office policies.

Provides administrative support to the Office.

(n–4–ii) *Division of Compliance (Biologics) (HFNCA).* Plans, develops, and directs the Office's regulatory compliance programs to assure the safety, purity, potency, and efficacy of biological products.

Prepares standards for the manufacture and testing of biological products for publication in the **Federal Register**. Prepares procedural and interpretative regulations under the applicable sections of the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended.

Develops compliance and surveillance programs for investigation of biological product manufacturers, for the inspection of licensed establishments and registered blood banks, and for investigations of violations of laws and regulations; conducts investigations and inspections and recommends regulatory action as necessary.

(n–4–iii) *Division of Biologics Evaluation (HFNCB).* Implements the Agency's Bioresearch Monitoring Program for biologics intended for human use.

Develops standards for the conduct of clinical and preclinical investigations performed to demonstrate the safety and effectiveness of biologics.

Develops requirements for compliance programs in the area of preclinical and clinical biologics investigations.

Assigns, directs, and coordinates onsite inspections of sponsors and investigators of preclinical and clinical biologics studies, institutional review committees, and commercial clinical testing facilities in collaboration with FDA's field organization.

Reviews applications and data prior to approving the use of a biological product that has not been licensed; maintains surveillance of clinical use and develops information for use in licensing products.

Reviews data for licensing biological products (including human blood and blood products) and their manufacturers.

Coordinates preclinical and clinical biologics investigation activities within and outside the Office to promote maximum utilization of resources an consistency of policies.

Evaluates investigation reports and recommends administrative and regulatory corrective measures as necessary.

Plans and conducts edcuational and informational activities with regard to standards for preclinical and clinical biologics investigations.

(n–4–iv) *Division of Blood and Blood Products (HFNCC).* Plans and conducts research on the preparation, preservation, and safety of blood and blood products, the methods of testing safety, purity, potency, and efficacy of such products for therapeutic use, and the immunological problems concerned with products, testing, and use of diagnostic reagents employed in grouping and typing blood.

Tests such products to insure that required standards have been met.

Inspects manufacturers of blood and blood products.

Recommends eligibility of applicants and blood products for licenses.

Develops standards for blood and blood products.

(n–4–v) *Division of Virology (HFNCD).* Plans and conducts direct research related to the development, manufacture, testing, and use of both new and old biological products of certain viral and rickettsial origins.

Plans and conducts research on the fundamental aspects of viral and rickettsial infections to obtain data and results bearing on the continued or increased safety, purity, potency, and efficacy of viral and rickettsial biological products.

Serves as a tissue culture source for the Office.

Conducts research with a variety of primary and established cell line cultures.

Assists in collaborative research (guiding of contract-supported activities) concerning viral and rickettsial biological products.

Reviews scientific data, such as license applications, for certain new viral and rickettsial products and license amendments for old products submitted to the Office.

Evaluates certain viral and rickettsial products using both laboratory and clinical procedures.

Test certain viral and rickettsial vaccines submitted for release and reviews manufacturers protocols with respect to such tests.

Inspects manufacturers of biological products.

(n–4–vi) *Division of Bacterial Products (HFNCE).* Plans and conducts research on fundamental aspects of bacteriology and immunology relating bacterial and allergic diseases of man to obtain data bearing on the continued or increased safety, purity, potency, and efficacy of bacteriological, allergenic, and analogous biological products, including the development of new biological products and new or improved methods of control of old and new products.

Plans and conducts research on the interactions between cells in culture and single microorganisms or chemical agents. Develops techniques for studying *in vitro* functions of immunized cells.

Carries out control tests and reviews manufacturers' protocols on selected products to insure that specific requirements for release are satisfied.

Participates in the inspection of manufacturers of biological products.

Provides staff having appropriate expertise for the product under consideration to serve on licensing committees.

Develops, reviews, and revises technical standards pertaining to the control of bacterial, allergenic, and analogous products.

Assists in collaborative research and management of contract-supported activities.

(n–4–vii) *Division of Biochemistry and Biophysics (HFNCG).* Plans and conducts research on (1) the chemistry and biology of vaccines and other biological products, impurities, and/or unsuspected components of new products; (2) the pathogenesis of

infectious diseases caused by bacteria, rickettsia, viruses, and parasites; and (3) immunologic processes which may lead to morphologic alteration.

Develops biolchemical and biophysical methodology and bioassays for application to the control of existing and newly developed biological products derived from recombinant DNA technology.

Reviews scientific data supporting license applications and amendments for biological products and provides staff having appropriate exertise for the product under consideration to serve on licensing committees.

Carries out control test and reviews manufacturers' protocols to insure that specific requirements for release are satisfied.

Participates in the inspection of manufacturers of biological products.

Assists in collaborative research and management of contract-supported activities.

(n–4–viii) *Division of Product Quality Control (HFNCH).* Plans and conducts a developmental testing program of biological products such as vaccines, cell-derived antiviral and antitumor substances, and various blood components to develop standards designed to insure the safety, purity, potency, and efficacy of such products and to improve the existing test procedures.

Plans and conducts sterility, general safety, pyrogen, and potency tests on biological products submitted for release or in support of license applications; and when required, performs safety, neurovirulence, and potency tests on biological products using nonhuman primates and certain other animals; reviews manufacturer's protocols with respect to such tests.

Removes various tissues from primates and other animals as required for control testing and research as well as for the preparation of cell cultures.

Administers the biological products release program; coordinates processing of protocols submitted for licensing and for the release of lots of biologics manufactured under existing licenses; receives, maintains, and distributes accompanying samples of biological products for tesing within the Office; reviews recommendations by laboratory divisions concerning compliance with regulatory requirements and issues notification of release or rejection.

Establishes and distributes control preparations and reference reagents to licensed manufacturers, health agencies, and other control groups.

Recommends criteria for acceptability pertaining to the development of regulatory standards and reference reagents for new biological products.

Provides technical training for representatives of domestic and foreign biological establishments in relation to control testing procedures.

Inspects manufacturers of biological products and laboratories conducting nonclinical studies involving investigational new drugs.

Reviews scientific data included in license applications for new biological products and amendments for old products.

Serves as custodian for official complaint samples and coordinates testing and compilation of results.

Coordinates testing and reporting of tests performed as a WHO Reference Center.

Assists in collaborative research and management of contract-supported activities.

Prior Delegations of authority. Pending further delegations, directives, or orders by the Commissioner of Food and Drugs all delegations of authority to the Director of the Bureau of Drugs and the Director of the Bureau of Biologics are vested in the Director of the National Center for Drugs and Biologics and all delegations to any other officer or employee of the merged bureaus in effect prior to the date of this order shall continue in effect in them or their successors.

Dated: June 7, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-17002 Filed 6-21-82; 8:54 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

June 3, 1982.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Golden Hill Paugussett Tribe, c/o Mr. Aureluis H. Piper, 427 Shelton Road, Trumbull, Connecticut 06611 has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on April 13, 1982. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) formerly § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Roy H. Sampsel,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 82-16831 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-02-M

Lessees and Operators of Indian Oil and Gas Leases; Approval of Communitization Agreements

June 7, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of adoption of guidelines relating to approval of communitization agreements.

SUMMARY: On April 23, 1982, the Deputy Assistant Secretary—Indian Affairs (Operations) transmitted to all Area Directors new guidelines to assist them in exercising their authority to approve communitization agreements affecting Indian oil and gas leases. The guidelines are based upon a judicial determination of the scope of that authority in a recent decision of the U.S. Court of Appeals for the 10th Circuit. The purpose of this notice is to inform lessees and operators about the guidelines adopted, with particular emphasis on the need in the future to submit communitization agreements to the appropriate Bureau office not less than 90 days prior to the date of expiration of the first Indian lease within the proposed unit.

ADDRESS: Request for copies of the guidelines for approval of communitization agreements may be obtained from the Chief, Division of Energy and Minerals Office of Trust Responsibilities, Bureau of Indian Affairs, P.O. Box 26268, Belmar Branch, Lakewood, CO 83705.

FOR FURTHER INFORMATION CONTACT: David Baldwin (303) 234–6961, or Tom Riggs, (202) 343–3722.

SUPPLEMENTARY INFORMATION: It is the intent of the BIA that in exercising the Secretary's discretionary authority to approve or disapprove communitization or unit agreements, BIA officials should take into consideration the Indian owners' best interests and consider all of the factors, including economic considerations, as prescribed by the U.S. Court of Appeals in its decision in *Kenai Oil and Gas, Inc. v. Department of the Interior*, 671 F.2d 383 (February 17, 1982). In that decision the Court of Appeals held that the Superintendent of the Uintah and Ouray Agency properly exercised his judgment and discretion in refusing to approve proposed communitization agreements based upon a finding that they did not serve the best economic interests of the Indian lessors. The Plaintiff had argued that the Superintendent's considerations were limited to considering matters involving production and conservation on restricted Indian lands. The Court concluded that the Secretary, acting in his capacity as a trustee, has the responsibility to manage Indian lands so as to make them profitable for the Indian and to maximize lease revenues. Accordingly, the new guidelines require that in the future BIA Area Directors and Superintendents must prepare a written determination, based upon ligical engineering and economic facts, that a proposed agreement is in the best interests of the Indian lessor. The guidelines also require that the long term effects of the agreement must be in the best interests of the Indian lessor and these effects must be documented.

The Bureau is aware that the process of reaching the determinations required by the guidelines will require that Area Directors and Superintendents receive proposed agreements sufficiently in advance of the expiration of the primary term of any Indian lease within the proposed unit in order to conduct an adequate review of the engineering and economic factors involved.

Consequently, in order to ensure adequate consideration, lessees of Indian lands are encouraged to submit all future communitization agreements to the appropriate Bureau of Indian Affairs office not less than 90 days prior to the date of expiration of the first Indian lease in the proposed unit.

Kenneth Smith,

Assistant Secretary for Indian Affairs.

[FR Doc. 82-16832 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

District Grazing Advisory Board; Meeting.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94-579, that a meeting of the Ely District Grazing Advisory Board will be held Tuesday, July 27, 1982.

The meeting will convene at 9:00 a.m. (PDST) in the conference room of the BLM Ely District office in Ely, Nevada. The office is located south of Ely, Nevada on the Pioche Highway. The agenda for the meeting will include: (1) Election of officers of the board, (2) reading of the minutes of the December 10, 1981 meeting, (3) discussion of the Schell Resource Area Grazing Environmental Impact Statement, (4) Coordination of Rangeland Management Policy with Coordinated Resource Management Planning, (5) Schell selective Management Criteria, (6) Fiscal year 1983 Range Improvement Projects, (7) Public comment period, (8) expanded role of District Grazing Advisory Board, (9) Discussion of policy for maintenance of range improvements, and (10) Advisory Board recommendations.

The meeting will be open to the public. Interested persons may make oral statements to the board at 1:00 p.m. (PDST) on the day of the meeting. Written statements must be submitted to the Ely BLM office by close of business on July 26, 1982. Depending on the number of persons wishing to make oral statements, a time limit per person may be established by the District Manager.

Summary minutes of the Grazing Advisory Board meeting will be maintained at the District Office and will be available for public inspections and reproduction, at the cost of duplication during regular office hours.

DATE: July 27, 1982.

ADDRESS: Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

FOR FURTHER INFORMATION CONTACT: Mr. John Barnes, 702-289-4865.

Dated: June 11, 1982.

George W. Cropper,

Acting District Manager.

[FR Doc. 82-16829 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-84-M

[NM-51739]

Intent To Amend Southeast Oklahoma Management Framework Plan

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice of Intent to Amend the Southeast Oklahoma Management Framework Plan.

SUMMARY: This notice is to advise the public that the Alburquerque, New Mexico District Office of the Bureau of Land Management (BLM) is reviewing and will amend a portion of the Southeast Oklahoma Management Framework Plan (MFP). The amendment process will allow for reevaluation of the potential for multiple-use management of the public land tracts in Oklahoma. Public lands not suitable for multiple-sue management will be identified for disposal.

SUPPLEMENTARY INFORMATION: The MFP amendment, planned for completion in October, 1982, will address the acceptability of approximately 1,13104 acres of public land for disposal.

The management decision will be made based on the following criteria: resolution of conflicts with existing MFP decisions, results of public participation and review, coordination with other federal and state agencies, and an analysis of those values that could additionally be impacted by designating the public lands as acceptable for disposal. Background standards and procedures for this MFP amendment preparation are contained in 43 CFR Part 1600 and 43 CFR Part 2700.

Anticipated issues include but are not limited to grazing, cultural resources, and socio-economics.

During the amendment process, an Environmental Assessment (EA)/Land Report will be prepared by staff specialists of the Oklahoma Resource Area Office. Disciplines to be represented include cultural resources, geology, hydrology, land use, recreation, socio-economics, soils, vegetation, visual resource management, and wildlife.

The public land tracts to be addressed for disposal are located in Haskell County, Oklahoma, and include the following:

Township 8 North, Range 22 E., of the Indian Meridian, Haskell County, OK.
Section ¼: NW¼, N½ NW¼ SW¼;
Section 15: SW¼, N½ SE¼, S½ SE¼ NE¼, S½ SE¼ SW¼ NE¼;
Section 16: S½ SE¼;
Section 21: Townsite Addition No. 2: Lots 38, 47, 48, 49, 50, 60, 61, 62, 63, 64;
Section 22: Townsite Addition No. 2: Lots 5, 6, 7, 8, 9, 18, 19, 28, 19, 30;

Section 22: Townsite Addition No. 3: Lots 8, 9, 10, 11, 12, 13, 14;
Section 23: Townsite Addition No. 3: Lots 1, 2, 3;
Section 24: SW¼, W½ SE¼, SE¼ SE¼.

Public participation opportunities will be provided by: (1) Sending a notice of intent to amend the MFP to federal, state, and local governments that would be concerned with the plan or have land use regulatory authority in the vicinity of the proposed amendment, and asking them to identify issues and concerns; (2) Publishing a news release to appear in local newspapers asking interested parties to identify issues of concern and impacts that should be addressed; and (3) Making the amendment, containing an initial decision, available for a 30-day public comment and protest period in August, 1982; (4) A public meeting will also be held during the 30-day comment and protest period and will be announced by a news release to appear in local newspapers. A **Federal Register** Notice will be published explaining the initial decision of the District Manager. Protests will be received by the State Director for 30 days following the notice. The initial decision may become final no sooner than 30 days following the notice and after any protests are resolved.

FOR FURTHER INFORMATION CONTACT: Michael E. Cyr, Bureau of Land Management, Oklahoma Resource Area Office, Room 548, 200 NW Fifth Street, Oklahoma City, Oklahoma 73102, phone (405) 231–4481. Documents relevant to the planning process are available for public inspection at the above address.

Dated: June 14, 1982.

L. Paul Applegate,

District Manager, Albuquerque, Bureau of Land Management.

[FR Doc. 82-16830 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-84-M

[INT FEIS 82-23]

Twin Falls Livestock Grazing Final Environmental Impact Statement; FEIS Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Twin Falls Livestock Grazing FEIS Availability.

SUMMARY: Pusurant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement for a proposed grazing management program for the Twin Falls Planning Unit of the Burley District in southcentral Idaho. The proposal involves changes in initial stocking rates, implementing improved grazing systems, and installation of certain range improvements. Approximately 231,000 acres of public lands are involved.

SUPPLEMENTARY INFORMATION: Copies of the final environmental impact statement are available for inspection at the following locations:

Burley District Office, Bureau of Land Management, Route 3, Box 1, Burley, ID 83318, Telephone: (208) 678–5514
Idaho State Office, Bureau of Land Management, Federal Building, 550 West Fort Street, Boise, ID 83724, Telephone: (208) 334–1770
Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240

A limited number of single copies may be obtained from the Idaho State Director or the Burley District Manager, Bureau of Land Management, at the above addresses.

FOR FURTHER INFORMATION CONTACT: Nick Cozakos, District Manager, or Scott Anderson, Magic Resource Area Manager, Burley District Office, Telephone: (208) 678–5514.

Dated: June 14, 1982.

Clair Whitlock,

Idaho State Director.

[FR Doc. 82-16838 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-84-M

[Int DEIS 82-34]

Proposed Livestock Grazing Management Program for the Schell Resource Area Ely District, Nev.; Availability of Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the draft environmental impact statement (DEIS).

SUMMARY: Pursuant to Section 102(2) of the National Environmental Policy Act of 1969, the BLM Ely District has prepared a DEIS on a proposed livestock grazing management program for the Schell Resource Area.

The Draft document consists of a summary of impacts, alternatives including the proposed action, the affected environment, environmental consequences, list of preparers and public participation.

SUPPLEMENTARY INFORMATION: The Schell Grazing EIS analyzes the effects of a proposed grazing management program on livestock, big game, and wild horses on 4.2 million acres of public lands in White Pine, Nye and Lincoln Counties, Nevada. The proposal includes recommended continuation of current grazing management levels, monitoring usage and adjusting usage to correct program deficiencies. Periods-of-use, utilization levels, grazing treatments, and range improvements will be used to limit severity of future adjustments. Four alternatives were considered along with the proposed action. They are: No Action alternative, No Livestock Grazing alternative, Grazing at Preference alternative and Resource Protection alternative.

Two public Hearings will be held on the Draft Environmental Impact Statement (DEIS). First at the Pioneer Inn, Reno, Nevada, July 12, 1982, at 7:00 p.m. Second will be at the Bristlecone Convention Center at Ely, Nevada, July 13, 1982, at 7:00 p.m. Written comments will be accepted until August 17, 1982, and should be submitted to: George Cropper, Acting District Manager, Attention: EIS Team Leader, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301; (702) 289–4865.

Copies of the DEIS are available for review at the following locations:

Bureau of Land Management, Nevada State Office, 300 Booth Street, Reno, Nevada 89509; (702) 784–5448
Bureau of Land Management, Elko District Office, 2002 Idaho Street, Elko Nevada 89801; (702) 738–4071
Bureau of Land Management, Winnemucca District Office, 705 E. 4th Street, Winnemucca, Nevada 89445; (702) 623–3676
Bureau of Land Management, Carson City District Office, 1050 E. William Street, Carson City, Nevada 89701; (702) 882–1631
Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301; (702) 289–4865
Bureau of Land Management, Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, Nevada 89102; (702) 385–6403
Bureau of Land Management, Battle Mountain District Office, North 2nd & Scott Streets, Battle Mountain, Nevada 89820; (702) 635–5181
Bureau of Land Management, Tonopah Resource Area, Building 102 Old Radar Base, Tonopah, Nevada 89049

Also, copies are available for review at the following public libraries:

Lincoln County Library, Caliente, Nevada 89008
Lincoln County Library, Pioche, Nevada 89043
Clark County Library, 1401 E. Flamingo Road, Las Vegas, Nevada 89109
Nevada State Library, Library Building, Carson City, Nevada 89710

University of Nevada, Las Vegas, James R. Dickenson Library, 4505 Maryland Parkway, Las Vegas, Nevada 89154
White Pine County Library, Campton Street, Ely, Nevada 89301
University of Nevada, Reno, Getchell Library, Reno, Nevada 89507

A limited number of copies of the draft EIS are available upon request to the Ely District Manager at the above address.

Dated: June 14, 1982.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 82-16839 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications; Houston Zoological Gardens and Philadelphia Zoological Society

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Houston Zoological Gardens, Houston, TX PRT 2-9268.

The applicant requests a permit to purchase in interstate commerce one male and one female Asian elephant (*Elephas maximus*) from Mr. Kenneth Berry, Seattle, WA., for enhancement of propagation.

Applicant: Philadelphia Zoological Society, Philadelphia, PA PRT 2-9272.

The applicant requests a permit to import serum extracted from a captive-born snow leopard (*Panthera uncia*) at the Jersey Wildlife Preservation Trust, Channel Island, for scientific research.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before July 22, 1982, by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: June 16, 1982.

Robert J. Batky,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-16821 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application for Permit; Carle Foundation Hospital

Notice is hereby given that an applicant has applied in due form for a permit to take polar bears as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant: Carle Foundation Hospital, 611 West Park Street, Urbana, Illinois 61801.

2. Type of permit: Scientific Research.

3. Name and number of animals: Polar bear (*Ursus maritimus*)—2.

4. Type of Activity: Capture.

5. Location of Activity: Alaska or Canada.

6. Period of Activity: September 1, 1982 to August 31, 1983.

The purpose of this application is to capture two polar bears and transport them to Carle Foundation Hospital for long-term scientific research. The animals will be held for up to twenty-five (25) years to study their food intake patterns and changes in biochemistry.

Concurrent with the publication of this notice in the **Federal Register** the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Manual Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-9221. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203, on or before July 22, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice are summaries of those of the applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: June 16, 1982.

Robert J. Batky,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-16822 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application for Permit; Donald B. Siniff

Notice is hereby given that an applicant has applied in due form for a permit to take sea otters as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant: Donald B. Siniff, 108 Zoology Building, University of Minnesota, Minneapolis, MN 55455.

2. Type of permit: Scientific Research.

3. Name and number of animals: Sea otter (*Enhydra lutris*)—160.

4. Type of Activity: Capture, tag, implant radio transmitter, collect blood samples and release.

5. Location of Activity: Pt. Pinos to Ragged Point, California and Prince William Sound, Alaska.

6. Period of Activity: July 1, 1982 to June 30, 1985.

The purpose of this application is to capture, tag, implant radio transmitters, and collect blood samples from sea otters to clarify the status of the population in California and the probable impact of removing animals for translocation purposes, to work out proposed implant procedures for radio transmitters, and to examine the degree of genetic diversity in the California and Alaska populations.

Concurrent with the publication of this notice in the **Federal Register** the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-9246. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203, on or before July 22, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice are summaries of those of the applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: June 16, 1982.

Robert J. Batky,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-16823 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Request for Comments From the Public and Industry on the Requirement for Complete Documentation of Crude Oil From Point of Origin to Final Destination

AGENCY: Minerals Management Service, Interior.

ACTION: Request for comments.

SUMMARY: The Minerals Management Service (MMS), formerly the Conservation Division of the U.S. Geological Survey (USGS), is considering recommendations for legislative action that would require the complete documentation of oil produced on Federal, Indian, and Outer Continental Shelf (OCS) lands from point of origin at the lease site to final destination. Thus, any person in possession of crude oil, including any operator, transporter, refiner, or other purchaser, would need proper documentation to validate the ownership of that crude oil through each exchange and resale until the oil reached its final destination. This legislation, if enacted by the Congress, would fulfill one of the recommendations of the Commission on Fiscal Accountability of the Nation's Energy Resources and affect approximate revision of 30 CFR Parts 221 and 250.

DATES: Written comments and recommendations must be received on or before July 22, 1982.

ADDRESS: Written comments may be mailed or delivered to Mr. Gerald R. Daniels, Acting Chief, Onshore Oil, Gas, and Geothermal Division, Minerals Management Service—MS650, 12203 Sunrise Valley Drive, Room 6A114, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Daniels, (703) 860-7535 (FTS 928-7535).

SUPPLEMENTARY INFORMATION: On January 19, 1982, the Secretary of the Interior established the Minerals Management Service and transferred to it all functions previously exercised by the Conservation Division, U.S. Geological Survey, including administration of the regulatory programs cited herein. Secretarial Order No. 3071 (47 FR 4751, February 2, 1982).

The Commission on Fiscal Accountability of the Nation's Energy Resources made the following recommendation regarding the documentation of oil (Report, January 1982, p. 96):

> That the department seek Federal legislation to prohibit the purchase of undocumented crude oil and require purchasers of crude oil up to and including refiners to keep documentation showing from whom they purchased the product and from what lease or unit.

At the present time MMS does not require transporters, refiners, reclaimers, resellers, pipeline operators, and other oil purchasers to have or seek proof of ownership before purchasing crude oil produced on Federal, Indian, or OCS lands. If enacted, this Federal legislation would require any person in possession of crude oil to have proper documentation to validate the ownership of that oil through each exchange or resale to point of final destination.

MMS is seeking comments from industry and interested parties concerning the effect of legislation of this nature. Comments are also welcomed concerning any possible alternatives to the legislation described above.

Dated: June 16, 1982.

Robert E. Boldt,

Acting Associate Director for Royalty Management.

[FR Doc. 82-16782 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 21, 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 July 7, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

INDIANA

Vanderburgh County

Evansville, *Siegel's Department Store (Downtown Evansville Multiple Resource Area)*, 101—105 SE 4th St.

[FR Doc. 82-16813 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-70-M

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 June 11, 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 July 7, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

ARIZONA

Maricopa County

Mesa, *Scott, Robert, House*, 2230 E. Granview St.

Phoenix, *Ong's, Jim, Market*, 1110 E. Washington St.

Pima County

Tucson, *Hotel Heidel*, 345 Toole Ave.

CALIFORNIA

Butte/Glenn Counties

Hamilton City, *Gianella Bridge*, CA 32

Los Angeles County

South Pasadena, *South Pasadena Historic District*, Roughly bounded by Mission and El Centro Sts., and Fairview and Meridian Aves.

Merced County

Merced, *Leggett, Thomas H., House*, 346 W. 21st St.

FLORIDA

Alachua County

Gainesville, *Dixie Hotel, Hotel Kelley*, 408 W. University Ave.

GEORGIA

Brooks County

Quitman, *Quitman Historic District*, US 84

IDAHO

Bonner County

Coolin vicinity, *Vinther and Nelson Cabin*, Eight Mile Island

IOWA

Hamilton County

Webster, *Webster City Post Office*, 801 Willson Ave.

Polk County

Des Moines, *Cummins, Albert Baird, House*, 2404 Forest Dr.

KENTUCKY

McCracken County

Paducah, *Jefferson Street—Fountain Avenue Residential District*, Jefferson and Madison Sts., Broadway, Fountain Ave., and Harahan Blvd.

MAINE

Franklin County

Kingfield, *Norton, William F., House*, 1 Stanley Ave.

Kennebec County

Augusta, *Maine Insane Hospital*, Hospital St.
Readfield, *Readfield Union Meeting House*, Church Rd.

Penobscot County

Bangor, *Hammond Street Congregation Church*, Hammon and High Sts.

Washington County

Calais, *St. Anne's Episcopal Church*, Church St.

Knox County

Vinalhaven, *Browns Head Light Station*, Browns Head

MARYLAND

Allegany County

Cumberland, *Koon, Thomas, House*, 221 Baltimore Ave.

Anne Arundel County

Sandy Point State Park vicinity, *Sandy Point Shoal Light*,

Baltimore County

Chesapeake Bay, *Craighill Channel Range Front Light*,
Fort Howard vicinity, *Western North Point*,

Cecil County

Calvert vicinity, *Kirk, Elisha, House*, MD 273
Elk Neck, *Turkey Point Light*,

Dorchester County

Hoopersville vicinty, *Hooper Island Light*,

Queen Annes County

Kent Point (Kent Island) vicinity, *Bloody Point Bar Light*,

St. Marys County

Dameron vicinity, *Point No Point Light*,

Talbot County

Tilghman Island vicinity, *Sharps Island Light*,

Allegany County

Cumberland, *Haley, Francis, House*, 634 Maryland Ave.

MASSACHUSETTS

Essex County

Gloucester, *Central Gloucester Historic District*, Roughly bounded by Middle, Main, Center, Hancock, Short, Prospect and Pleasant Sts.

Middlesex County

Concord, *Wheeler-Merriam House*, 477 Virginia Rd.
Newton, *Farlow and Kendrick Parks Historic District*, Roughly bounded by Franklin, Park, Church, Center and Wesley Sts. and Maple Ave.

Worcester County

Leominster, *Monument Square Historic District*, Main and Water Sts., and Grove Ave.
Leominster, *Wachusett Shirt Company*, 97—100 Water St.

MICHIGAN

Chippewa County

Sault St. Marie, *Church of Our Savior, Friend of Children*, Payment Settlement and Sugar Island

Hillsdale County

Hillsdale vicinity, *Kirby, William R., Sr., House*, 377 State Rd.

Washtenaw County

Ypsilanti, *Brinkerhoff-Becker House*, 601 W. Forest Ave.

Wayne County

Detroit, *The Clay School*, 453 Martin Luther King, Jr., Blvd.
Grosse Pointe Farms, *Alger, Russell A., Jr., House*, 32 Lake Shore Dr.

MISSISSIPPI

Humphreys County

Lake City vicinity, *Slate Archaeological Site (22 Hu655)*,

NEBRASKA

Lancaster County

Lincoln, *Ryons-Alexander House*, 1835 Ryons St.

NEW JERSEY

Burlington County

Burlington Township, *Green Hill Farm*, Oxmead and Deacon Rds.
Chesterfield vicinity, *Holloway, James and Charles B., Farm Complex*, Newbold La.
Chesterfield, *Holloway Agricultural Preserve*, Georgetown Rd.

Camden County

Haddonfield, *Haddonfield Historic District*, Roughly bounded by Washington, Hopkins, Summit, and E. Park Aves., and Kings Highway

Monmouth County

Asbury Park, *Steinbach-Cookman Building*, Cookman Ave.

Morris County

Harding, *New Vernon Historic District*, Lee's Hill, Village, Mill Brook and Glen Alpin Rds.

Ocean County

Island Heights, *Island Heights Historic District*, Roughly bounded by Toms River, Summit and River Aves.

Passaic County

Paterson, *Cooke, Frederick William, Residence*, 384 Broadway

Somerset County

Bedminster, *Pluckemin Village Historic District*, US 206 and Burnt Mills Rd.
Rocky Hill, *Rocky Hill Historic District*, Washington, Montgomery, and Princeton Aves.

NEW MEXICO

Taos County

Taos, *La Loma Plaza Historic District*, NM 240

NEW YORK

New York County

New York, *House at 203 East 29 Street*, 201—203 E. 29th St.
New York City, *Candler Building*, 220 42nd St. and 221 41st St.
New York, *Church of the Incarnation and Parish House*, 205—209 Madison Ave.

Putnam County

Philipstown vicinity, *Old Albany Post Road*, US 9

Richmond County

Staten Island, *Ward, Caleb T., Mansion*, 141 Nixon Ave.

Ulster County

Libertyville vicinity, *DuBois, Hendrikus, House*, 600 Albany Post Rd.
Village of Saugerties, *Main-Partition Streets Historic District*, Roughly bounded by Main, Partition, Market and Jane Sts.

Westchester County

Yonkers, *Yonkers Water Works*, Roughly bounded by Saw Mill River and Grassy Sprain Rds., and Gilmar Dr.

OHIO

Hamilton County

Cincinnati, *Wilson-O'Neil, House*, 1502 Aster Pl.

Stark County

Canton, *Old McKinley High School*, 800 N. Market St.

Union County

North Lewisburg, *The Fort*, 26953 N. Lewisburg Rd.

OKLAHOMA

McIntosh County

Eufaula vicinity, *The First Soil Conservation District Dedication Site*, N. of Eufaula

OREGON

Jackson County

Ashland, *Lithia Park*, 59 Winburn Way

Marion County

Mt. Angel, *Queen of Angels Priory*, 840 S. Main St.

Multnomah County

Portland, *Meier and Frank Building*, 621 SW. 5th Ave.

Washington County

Cornelius, *Sholes, Albert S., House*, 1599 S. Alpine St.

Yamhill County

Sheridan, *Travelers Home*, 147 NE Yamhill St.

PENNSYLVANIA

Berks County

Douglassville, *Bonnecroft*, R.D. #2, Box 379, Oley Line Rd.

Chester County

Thornbury, *Barnard, William J., Residence/ Thornbury Lodge*, 920 E. St. Rd., and PA 926

Fayette County

N. Union, *Springer Farm*, PA 51

Jefferson County

Brookville, *Taylor, Phillip, House*, Euclid Ave.

Montgomery County

Marlborough, *Bauern Freund Print Shop*, PA 63

Philadelphia County

Philadelphia, *1900 Rittenhouse Square Apartments*, 1900 S. Rittenhouse Sq.
Philadelphia, *Jayne, Horace, Residence*, 320 S. 19th St.
Philadelphia, *Uptown Theater and Office Building*, 2240–2248 N. Broad St.

PUERTO RICO

Arecito County

Arecibo, *Casa Ulanga*, #7 Gonzalo Marin St.
Santurce, *Polvorin de Miraflores*, Antigua Base Naval de Miramar

SOUTH DAKOTA

Stanley County

Ft. Pierre vicinity, *Lower Antelope Creek Site (39ST106)*

TEXAS

Brown County

Brownwood, *Walker, J. A., House and Rogers, R. B., House*, 701 and 707 Center Ave.

Ellis County

Waxahachie, *Rosemont House*, 701 S. Rogers

Hidalgo County

Linn vicinity; *San Juanito Archeological District*, TX 1017

Lynn County

Tahoka, *Lynn County Courthouse*, Public Sq.

McLennan County

Waco, *Cooper, Madison, House*, 1801 Austin Ave.

TEXAS

Taylor County

Abilene, *U.S. Weather Bureau Building*, 1482 N. 1st St.

Travis County

Austin, *Sampson, George W., House*, 1003 Rio Grande

UTAH

Salt Lake County

Midvale, *Salt Lake County Library*, 80 E. Center St.

Sanpete County

Ephraim, *Johnson-Nielson House*, 351 N. Main St.

Uintah County

Vernal, *Curry, Lewis, House*, 189 S. Vernal Ave.

Utah County

Provo, *Maeser School*, 150 S. 500 E.

Washington County

Zion Lodge Historic District, Zion National Park

VIRGINIA

Lynchburg (Independent City)

Courthouse Street Baptist Church, 6th and Court Sts.

Accomack County

Accomack, *Accomack Historic District*, Business Rte. 13

Albemarle County

Charlottesville vicinity, *Carrsbrook*, VA 1424
Charlottesville vicinity, *Ednam House*, US 250
Greenwood vicinity, *Emmanuel Church*, US 250

Alleghany County

Callaghan, *Wood Hall*, VA 600
Covington, *Persinger House*, VA 788
Falling Spring vicinity, *Massie House*, US 220
Selma vicinity, *Oakland Grove Presbyterian Church*, VA 696

Augusta County

Grottoes vicinity, *Harnsberger Octagonal Barn*, VA 256 and VA 865
Middlebrook vicinity, *Miller, A. J., House*, VA 639

Brunswick County

White Plains vicinity, *Brick House (Woodlands)*, VA 659

Carroll County

Hillsville, *Carroll County Courthouse*, 515 Main St.

Craig County

Craig Springs, Craig Healing Springs, VA 658

Floyd County

Floyd vicinity, *Zion Lutheran Church and Cemetery, VA 693*

Franklin County

Rocky Mount, *Woods-Meade House*, 118 Maple St.

Frederick County

Bartonsville vicinity, *Hite, John, House*, US 11
Bartonsville vicinity, *Springdale Mill Complex*, US 11

Greensville County

Cowie Corner vicinity, *Weaver House*, VA 614
Hampton (Independent City)
Little England Chapel, 4100 Kecoughtan Rd.
Harrisonburg (Independent City)
Hockman, Anthony, House, E. Market and Broad Sts.

Loudoun County

Aldie vicinity, *Loudoun Argicultural and Mechanical Institute, VA 650*
Lynchburg (Independent City)
Sandusky House, 757 Sandusky Dr.

Pittsylvania County

Chatham, *Clerk's Office*, Main St.

Pulaski County

Pulaski, *Pulaski County Courthouse*, Main St.
Richmond (Independent City)
Cathedral of the Sacred Heart, Floyd Ave. and Laurel St.
Virginia Union University, 1500 N. Lombardy St.

Rockingham County

Broadway, *Bethlehem Church*, VA 798
Grottoes, *Harnsberger, Stephen, House*, Holly Ave.

Smyth County

Atkins vicinity, *Old Stone Tavern*, US 11

Southampton County

Newsoms, *Sunnyside*, VA 673
Staunton (Independent City)
Breezy Hill, 1220 N. Augusta St.
Waverly Hill, 3001 N. Augusta St.

Tazewell County

Tazewell vicinity, *Chimney Rock Farm*, VA 91

WISCONSIN

Dane County

Madison vicinity, *Mann, John, House*, 6261 Nesbitt Rd.

Jefferson County

Jefferson vicinity, *Pitzner Site (47 Je 676)*, Martin Rd.
Lake Mills, *Fargo, Enoch J., House*, 406 Mulberry St.

[FR Doc. 82–16814 Filed 6–21–82; 8:45 am]

BILLING CODE 4310–70–M

Availability of Plan of Operations for the Purpose of Oil Drilling Operations; Big Cypress National Preserve

In accordance with § 9.52 of Title 36 of the Code of Federal Regulations, Big Cypress National Preserve has received from Exxon Company, U.S.A., a Plan of

Operations for the purpose of oil drilling in the Bear Island area of the Preserve. The public is invited to review and comment on the Plan of Operations, copies of which are available for review during normal business hours at Everglades National Park, Route 27, 12 miles south of Homestead, Florida; Big Cypress National Preserve, Ochopee, Florida; Miami-Dade Public Library System, Main Library, 1 Biscayne Boulevard, Miami, Florida; Collier County Public Library, 650 Central Avenue, Naples, Florida; and at the National Park Service, Southeast Regional Office, 75 Spring Street, S.W., Atlanta, Georgia. Comments received on or before July 22, 1982 will be entered into the official record. For further information, contact Pat Tolle, Management Assistant, Everglades National Park (305) 247–6211.

Dated: June 4, 1982.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 82-16837 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-70-M

[A18 (SAMO)]

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Santa Monica Mountains National Recreation Area Advisory Commission will be held on Tuesday, July 13, 1982 at 7:30 p.m. in the multi-purpose room at Paul Revere Junior High School at 1450 Allenford Avenue in Los Angeles, CA.

The Advisory Commission was established by Pub. L. 95–625 to provide for free exchange of ideas between the National Park Service and the public to facilitate the solicitation of advice of other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Honorable Marvin Braude
Ms. Sarah Dixon
Ms. Margot Feuer
Dr. Henry David Gray
Mr. Edward Heidig
Mr. Frank Hendler
Ms. Mary C. Hernandez
Mr. Peter Ireland
Mr. Bob Lovellette
Ms. Susan Barr Nelson
Mr. Carey Peck
Mr. Donald Wallace

The major agenda item include the following:

Review of the Management of Parkland Study Commitee reports including the Resource Management Committee
Revision of Bylaws for clarification
Superintendent's status report

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreational Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364.

Minutes of the meeting will be available for public inspection by August 31, 1982, at the above address.

Dated: June 9, 1982.

William Webb,

Acting Superintendent, Santa Monica Mountains National Recreation Area.

[FR Doc. 82-16812 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 269]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided June 15, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the 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 52673 (Sub-32)X, filed June 7, 1982. Applicant: FRED OLSON MOTOR SERVICE CO., 6022 West State St., Milwaukee, WI 53213. Representative: William D. Brejcha, 180 N. Michigan, Suite 1700, Chicago, IL 60601. Sub 31 Certificate: broaden from cement to "clay, concrete, glass or stone products, chemicals and related products."

MC 61396 (Sub-404)X, filed June 4, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Sub-Nos. 3F and 5F permits, Broaden (1) to "food and related products" from flour and middlings, Sub-No. 3F, and from flour, wheat germ and animal feed, Sub-No. 5F; (2) remove in bags and in bulk restrictions; Sub-No. 5F; and (3) to "between points in the U.S. (except AK and HI)" under continuing contracts with named shippers.

MC 96165 (Sub-22)X, filed June 1, 1982. Applicant: T. DEL FARNO TRUCKING CO., 30 Lockbridge St., Pawtucket, RI 02860. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Lead and Subs 9, 11, 14F, 15F, 16F, 19, 20, and 21 (A) broaden the commodity descriptions from (1) cinder blocks to "clay, concrete, glass or stone products", in the lead; (2) monuments and cast stone to "metal products and clay, concrete, glass or stone products", in the lead; (3) granite, marble, and limestone to "clay, concrete, glass or stone products, and ores or minerals" in the lead; (4) unfinished granite stone (including waste, rubble, and riprap) in bulk, in dump vehicles, or dump semitrailers to "clay, concrete, glass or

stone products, and waste or scrap materials", in the lead; (5) fertilizer to "chemicals and related products", in Sub 9; (6) materials and equipment used in road building to "construction materials and equipment", in Sub 9; (7) road building machinery to "machinery", in Sub 9; (8) steel piling to "metal products", in Sub 11; (9) steel pipe, pipe, fittings, beams, piling, rails, railway track accessories, pile drivers, pile extractors, and parts and materials and supplies used in the manufacture, installation, dismantling and distribution of same to "metal products, lumber and wood products, machinery, transportation equipment and materials and supplies used in their manufacture, installation, dismantling and distribution", in Sub 14; (10) road construction and excavating materials and road building machinery, the transportation of which because of size and weight requires the use of special equipment to "construction materials, machinery, and those commodities which because of size or weight requires the use of special equipment", in Sub 15; (11) construction and road building machinery, materials, supplies, and equipment, the transportation of which because of size or weight requires the use of special equipment to "construction materials, machinery, transportation equipment and those commodities which because of their size or weight requires the use of special equipment", in Sub 15; (12) machinery, and commodities requiring specialized handling or rigging because of their size or weight to "machinery, and those commodities which because of their size or weight requires the use of special handling or equipment", in Sub 15; (13) iron and steel articles to "metal products", in Sub 16; (14) steel piling to "metal products", in Sub 16; (15) pile driving equipment and parts and accessories for pile driving equipment to "transportation equipment and machinery", in Sub 16; (16) road construction and excavating materials, and road building machinery to "construction materials and machinery", in Sub 19; (17) construction and road building machinery, materials, supplies, and equipment, the transportation of which because of their size or weight requires the use of special equipment to "those commodities which because of their size or weight requires the use of special handling or equipment", in Sub 19; (18) machinery, electrical equipment, and commodities requiring specialized handling or rigging because of their size or weight to "machinery, metal products, and those commodities which because of their size or weight requires the use of special handling or equipment", in Sub 19; (19) such self-propelled articles, each weighing 15,000 lbs. or more, which may be included in construction and road-building machinery, materials, supplies, and equipment, and related machinery, tools, parts, and supplies moving in connection therewith to "transportation equipment, machinery, metal products and lumber and wood products", in Sub 19; (20) machinery, exhibition material, and commodities requiring special handling or rigging because of their size or weight to "machinery, exhibition material, and those commodities which because of their size or weight requires the use of special handling or equipment", in Sub 21; (21) machinery, and commodities requiring special handling or rigging because of their size or weight to "machinery, and those commodities which because of their size or weight requires the use of special handling or equipment", in Sub 21; (22) machine parts, contractors' equipment, and heavy and bulky articles to "machinery, contractors' equipment, and those commodities which because of their size or weight requires the use of special handling or equipment", in Sub 21; and to (B) expand the points in (1) Providence, RI and North Providence, RI to Providence, Kent, Washington, and Bristol Counties, RI, and Norfolk and Bristol Counties, MA, in the lead; (2) Uxbridge, MA to Worcester County, MA, in the lead; (3) Woburn and Boston, MA and Lebanon, NH to Suffolk, Norfolk, Middlesex, Essex, and Plymouth Counties, MA and Grafton County, NH, in Sub 9; (4) Albany, Center Brunswick, Troy, and Whitehall, NY and West Lebanon, NH to Albany, Rensselaer, Saratoga, Schenectady, and Washington Counties, NY and Grafton County, NH, in Sub 9; (5) Pawtucket, RI, to Providence, and Bristol Counties, RI, and Norfolk and Bristol Counties, MA, in Subs 11 and 16; (6) Parkersburg and Washington, WV to Wood County, WV, in Sub 14; (7) Old Bridge, NJ to Middlesex County, NJ, in Sub 16; (8) Bridgeport, CT to Fairfield County, CT, in Sub 16; (9) North Kingstown, RI to Washington County, RI, in Sub 20; (C) remove restrictions of (1) in bulk, in dump trucks, tank vehicles, or dump semi-trailers, in the lead and Subs 14 and 15, (2) seasonal operations, in Sub 9; (3) facilities of named shipper at specific points, in Sub 14; (4) against service performed in connection with the stringing or picking up of pipe in connection with oil, gas, or gasoline pipelines, in Subs 19 and 20; (5) weight limitations, in Sub 19; (6) authorize radial authority for one-way authorities in the lead and Sub 9.

MC 111310 (Sub-72)X, filed May 27, 1982. Applicant: MILLIS TRANSFER, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Lead and Subs 1, 12, 15, 16, 18, 19, 20, 24, 25, 27, 29F, 30F, 33F, 34F, 36F, 37F, 38F, 42F, 48F, 49F, 50F, 51F, 54F, 58F, 59F, 60F, and 61F: (1) Broaden (a) malt beverages, empty malt beverage containers, carbonated beverage, used empty malt beverage containers, malt beverage dispensing equipment in mixed loads, related advertising materials and supplies, mineral water, water, meats, meat product, meat by-products and articles distributed by meat packing houses, and beverages to "food and related products" in the lead and Subs 1, 12, 15, 16, 18, 20, 25, 27, 30F, 34F, 36F, 37F, 38F, 42F, 48F, 49F, 50F, 51F, 59F, 60F, and 61F; (b) glass containers to "clay, concrete, glass or stone products" in Sub 24; and (c) paper products, and plastic products to "pulp, paper and related products and rubber and plastic products" in Sub 58F; (2) eliminate facility limitations in Subs 18, 30F, 50F and 54F; (3) change one-way to radial; (4) broaden Menomonie to Dunn County, WI; Hartland to Waukesha County, WI; Cold Spring to Stearns County, MN; Lafayette to Tippecanoe County, IN; Michigan City to La Porte and Porter Counties, IN; La Crosse to La Crosse County, WI; Sparta to Monroe County, WI; Eau Claire to Eau Claire County, WI; Reedsburg to Sauk County, WI, Wausau to Marathon County, WI; Shakopee to Scott County, MN; Rosemount to Dakota County, MN; St. Cloud to Stearns, Sherburne and Benton Counties, MN; Algoma to Kewaunee County, WI; Peoria to Peoria, Woodford and Tazewell Counties, IL; Terre Haute to Vigo County, IN; New Ulm to Brown and Nicollet Counties, MN; Chippewa Falls to Chippewa and Eau Claire Counties, WI; Norwalk to Monroe County, WI; Frankemuth to Saginaw County, MI; Lapel to Madison County, IN; Beaver Dam to Dodge County, WI; and Rice Lake to Barron County, WI; and Rice Lake to Barron County, WI; (5) remove restrictions against service to Duluth, St. Cloud, Moorehead, Mankato, Detroit Lakes, East Grand Forks, and Breckenridge, MN in Sub 12; to Mankato, Albert Lea, Hibbing, Chisholm, Moorehead, Breckenridge, Detroit Lakes, and East Grand Forks, MN in Sub 16, and to Darlington, Delavan, Janesville, Beloit, and Portage, WI in Sub 30; and (6) remove the restrictions, wherever they appear, in containers or kegs, except in bulk, in containers, and in tank vehicles, and the originating at and destined to restriction

in Subs 18, 20, 30F 34F, 37F, 50F, and 54F.

MC 115331 (Sub-556)X, filed June 8, 1982. Applicant: TRUCK TRANSPORT, INCORPORATED, 11040 Manchester Rd., St. Louis, MO 63122. Representative: J. R. Ferris (same as applicant). Sub-182: (1) Broaden lime, limestone, and limestone products to "clay, concrete, glass or stone products"; (2) expand one-way to radial authority; and (3) remove the (a) in bags, and in bulk, and (b) originating at/destined to restrictions.

MC 121705 (Sub-10)X, filed June 10, 1982. Applicant: PERISHABLE DELIVERIES, INC., 1520 Beason St., Baltimore, MD 21230. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD. Sub 8F: (1) broaden foodstuffs to "food and related products"; (20) remove the facilities limitation; and (3) replace Landover, MD with Prince George County, MD and Washington, D.C.

MC 125416 (Sub-3)X, filed June 1, 1982. Applicant: FLORA SERVICE, INC., 847 Flora St., Elizabeth, NJ 07201. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684. Lead and Subs 1 and 2: (1) broaden wrecked and disabled motor vehicles, except mobile homes or house trailers designed to be drawn by passenger automobiles, and replacement vehicles to "transportation equipment"; and (2) remove the "in truckaway service" restriction.

MC 142649 (Sub-9)X, filed June 1, 1982. Applicant: H. O. SMESTAD CO., P.O. Box 2904, Great Falls, MT 59403. Representative: Timothy R. Striver, P.O. Box 1576, Boise, ID 83701. MC-142649 Subs 3, 6, 7 (issued April 4, 1979), and 7 (acquired in MC-FC-77298, issued March 19, 1981) certificates: (1) broaden malt and carbonated beverages, and equipment and supplies (Subs 3, 6, and 7, issued April 4, 1979) and beer, (Sub 7, issued March 19, 1981) to "food and related products" and empty containers (Subs 3 and 7, issued April 4, 1979) and recyclable aluminum cans (Sub 6) to "containers"; (2) change one-way to radial authority, Subs 3, 6, 7 (issued April 4, 1979) 7 (issued March 19, 1981); (3) change cities to county-wide authority: San Antonio, TX (Bexar County), Sub 6; and La Crosse and Milwaukee, WI (La Crosse and Milwaukee Counties), Sub 7 (issued March 19, 1981); and (4) remove the originating at and destined to restriction, Sub 7 (issued April 4, 1979. MC-124962 Sub 2 permit: broaden iron and steel articles and scrap metals to "metal products" and change the territorial description to between points in the U.S., under continuing contract(s) with named shipper. MC-139402 and Subs 1, 5, and 7 permit: (1) broaden beer and carbonated beverages (lead and Sub 1) and malt and carbonated beverages and related advertising materials and supplies (Sub 5) to "food and related products" and wine, ale, non-alcoholic beverages, and beverage mixes to "beverages", Sub 7; and (2) change the territorial description to between points in the U.S., under continuing contract(s) with named shippers, lead and Subs 1, 5 and 7.

MC 144757 (Sub-22)X, filed June 8, 1982. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 3104 East St. Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. MC-144757 Subs 1F and 2F certificates: (1) broaden shakes and shingles to "lumber or wood products, and materials, equipment and supplies used in the manufacture, sale and distribution thereof," Sub 1F; (2) add "materials, equipment and supplies used in the manufacture, sale and distribution thereof" to lumber, lumber products, wood products and forest products, Sub 2F; (3) remove the originating at restriction, Sub 2F; and (4) change one-way to radial authority, Subs 1F and 2F. MC-143471 Subs 6F, 7F, 24F, 25F, 27F, 29F, and 30F permits: (1) broaden (a) stone, stone aggregates, and whiting (Subs 6F and 25F), minerals and stone (Sub 29F) and gypsum and gypsum products (Sub 30F) to "clay, concrete, glass or stone products, and materials, equipment and supplies used in the manufacture, sale and distribution thereof;" (b) acrylic bathroom fixtures to "rubber and plastic products, and materials, equipment and supplies used in the manufacture, sale and distribution thereof," Sub 7F; (c) iron and steel articles to "metal products and materials, equipment and supplies used in the manufacture, sale and distribution thereof," Sub 24F; and (d) lumber, lumber products, forest products, wood products and millwork to include "materials, equipment and supplies used in the manufacture, sale and distribution thereof," Sub 27F; and (2) change the territorial description to between points in the United States, under continuing contract(s) with named shippers in the above permits.

[FR Doc. 82-16799 Filed 6-21-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be

construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP3-088

Decided: June 14, 1982.

By the Commission, Review Board No. 2, members Carleton, Fisher, and Williams.

MC 136774 (Sub-28), filed May 27, 1982. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Donald B. Levin, 29 South LaSalle St., Chicago, IL 60603, (312) 236-9375. Transporting *food and related products*, between points in Linn County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142875 (Sub-2), filed May 28, 1982. Applicant: A. GOMES BUS LINES, INC., 73 Gooding Ave., Bristol, RI 02809. Representative: Russell B. Curnett, P.O.Box 366, 826 Orleans Rd., Harwich, MA 02645, (617) 432-0907. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in MA and RI, and extending to points in the U.S. (except AK and HI).

MC 146674 (Sub-11), filed May 27, 1982. Applicant: K.I.T. MOTOR EXPRESS, INC., P.O. Box 4004, Louisville, KY 40204. Representative: Edward J. Kiley, 1730 M St., N.W., Washington, DC 20036, (202) 296-2900. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kuhlman Corporation, and its subsidiaries, of Birmingham, MI.

MC 147145 (Sub-4), filed May 24, 1982. Applicant: ANDERSON AND SONS TRUCKING CO., INC., P.O. Box 2112, Sparks, NV 89432. Representative: James R. Anderson, Jr., (same address as applicant) (702) 331-1901. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NV.

MC 152744 (Sub-5), filed May 27, 1982. Applicant: CITADEL TRANSPORT, INC., 180 N. Michigan Ave., Chicago, IL 60601. Representative: Daniel C. Sullivan, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263-1600. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of frozen bakery goods, between points in the U.S., under continuing contract(s) with Kitchens of Sara Lee, Inc., of Deerfield, IL.

MC 152744 (Sub-7), filed May 27, 1982. Applicant: CITADEL TRANSPORT, INC., 180 N. Michigan Ave., Chicago, IL 60601. Representative: Daniel C. Sullivan, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263-1600. Transporting *such commodities* as are dealt in by grocery houses, between points in the U.S., under continuing contract(s) with Lever Bros. Co., of St. Louis, MO.

MC 157114 (Sub-1), filed May 28, 1982. Applicant: R. H. A. TRUCKING, INC., R. R. #2 Napoleon, OH 43545. Representative: Robert Arps, (same address as applicant), (419) 267-5208. Transporting *Machinery*, between points in Henry Country, OH, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Automatic Feed Company, of Napoleon, OH.

MC 158715 (Sub-1), filed May 28, 1982. Applicant: WILLIAM F. BRAUN MILK, HAULING, INC., 202 N. Second Street, Hecker, IL 622248. Representative: Linda S. Braun, 320 County Village Lane, Hecker, IL 62248, (618) 473-2917. Transporting *food and related products*, between points in the U.S. (except AK and HI), under a continuing contract(s) with Pevely Dairy Company, of St. Louis, MO.

MC 158715 (Sub-1), filed May 28, 1982. Applicant: WILLIAM F. BRAUN MILK, HAULING, INC., 202 N. Second Street, Hecker, IL 62248. Representative: Linda S. Braun, 320 County Village Lane, Hecker, IL 62248, (618) 473-2917. Transporting *food and related products*, between points in the U.S. (except AK and HI), under a continuing contract(s) with Pevely Dairy Company, of St. Louis, MO.

MC 158994 (Sub-1), filed May 27, 1982. Applicant: ABLE TRANSPORT, INC., 307 Progress Ave., Zelienople, PA 16063. Representative: Brian L. Troiano, 918 16th St., NW., Washington, DC., 20006, (202) 785-3700. Transporting (1) *ores and minerals*, (2) *coal, coal products, and petroleum products*, (3) *chemicals and related products*, (4) *clay, concrete, glass or stone products*, (5) *metal products*, and (6) *waste or scrap materials*, between points in the U.S. (except AK and HI).

MC 160805, filed May 27, 1982. Applicant: HALL TRUCKING COMPANY, INC., State Road 37 North, Orleans, IN 47452. Representative: Andrew K. Light, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204-3491, (317) 638-1301. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in IN on and south of Interstate Hwy 70, on the one hand, and, on the other, Chicago, IL, Louisville, KY, Detroit, MI, Cincinnati, OH, and points in IN on the south of Interstate Hwy 70.

MC 161664, filed May 28, 1982. Applicant: DISTRIBUTION SERVICE CORPORATION, P.O. Box 65093, West Des Moines, IA 50265. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282-3525. Transporting *carpet and vinyl floor coverings*, between points in IL, IA, MN, MO, NE, and SD, on the one hand, and, on the other, points in AL, GA, IL, IA, MN, MO, NE, SC, SD, and TN.

MC 162235, filed May 27, 1982. Applicant: PEABODY CLEAN INDUSTRY, INC., 170 Border St., East Boston, MA 02128. Representative: Morton E. Kiel, 2 World Trade Center, Suite 1832, New York, NY 10048-0640, (212) 466-0220. Transporting *hazardous materials and toxic wastes*, between points in the U.S. (except AK and HI).

MC 162254, filed June 1, 1982. Applicant: BARRIE F. AND GWYNNE D. MAINLAND, d.b.a., kangaroo PICK UP AND DELIVERY SERVICE, 1666 Main Ave., Durango, Co 81301. Representative: Barrie F. Mainland, (same address as applicant) (303) 237-8199. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Archuleta, LaPlata and Montezuma Counties, Co, and San Juan County, NM, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP3-089

Decided: June 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 1934, Sub 50, filed June 1, 1982. Applicant: THE ARROW LINE, INC., 105 Cherry St., P.O. Box 387, East Hartford, CT 06108. Representative: Helen D. Smith, (same address as applicant), (203) 289-1531. Transporting *passengers and their baggage*, in the same vehicle with passengers, limited to the transportation of not more than 26 passengers (excluding the driver) in one vehicle at one time, between New York, NY and points in Hartford County, CT.

MC 14314 Sub 55, filed June 1, 1982. Applicant: DUFF TRUCK LINE, INC., P.O. Box 359, Broadway and Vine Sts., Lima, OH 45802. Representative: Ronald D. Mills (same address as applicant),

(419) 222–8045. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with K-Mart Corporation, of Troy, Mi.

MC 78725 Sub 8, filed June 1, 1982. Applicant: ROLLAND GUENTHER, d.b.a. R. GUENTHER TRUCKING P.O. Box 175, Ross, OH 45061. Representative: Stephen L. Oliver, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Champion International Corporation of Stamford, CT.

MC 105774 Sub 18, filed June 1, 1982. Applicant: JOHNSON TRUCK LINE, INC., P.O. Box 403, Osborne, KS 67473. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting *food and related products*, between points in CA, CO, ID, OR and WA, on the one hand, and, on the other, points in AR, CO, KS, MO and NE.

MC 115495 Sub 42, filed June 1, 1982. Applicant: UNITED PARCEL SERVICE, INC., 3755 East Main St., Room 112, St. Charles, IL 60174. Representative: Everett Hutchinson, 1150 Connecticut Ave., NW, Washington, DC 20036. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods), between points in AL, AR, AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY, PA, WV, and VA, subject to the following condition: No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined each package or article shall be considered as a separate and distinct shipment.

Note.—Applicant states that the sole purpose of this application is to consolidate applicant's present authority in Certificate MC 115495 Sub 37 and 41X.

MC 115654 Sub 200, filed June 2, 1982. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 1024 Pennsvylvania Bldg., 425 13th St., N.W., Washington, DC 20004, (202) 347–8862. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 115694 Sub 4, filed June 1, 1982. Applicant: J. BALLEW & SONS, INC., Box 47, Stuarts Draft, VA 24477. Representative: James E. Ballew (same address as applicant), (703) 337–2336. Transporting *metal products* and *machinary*, between Salem and Bristol, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Salem Tool, Inc., of Salem, VA.

MC 126104 Sub 3, filed June 1, 1982. Applicant: TRAMCOR CORPORATION, 2711 Midland Dr., Ogden, UT 84401. Representative: Bruce W. Shand, Suite 280, 311 S. State St., Salt Lake City, UT 84111, (801) 531–1300. Transporting *clay, concrete, glass and stone products, and metal products*, between points in the U.S., under continuing contract(s) with Interpace Corporation, of Ogden, UT.

MC 127745 (Sub-11), filed June 1, 1982. Applicant: GEORGE B. KING, d.b.a. KING TRANSFER, 21st & Pearl Street, Onawa, IA 51040. Representative: Robert A. Wichser, 920 West 21st Street, P.O. Box 155, South Sioux City, NE 68776, (402) 494–5466. Transporting *chemicals and related products*, between points in CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, WI and WY.

MC 128685 (Sub-42), filed June 1, 1982. Applicant: DIXON BROS., INC., P.O. Drawer 8, Newcastle, WY 82701. Representative: Jerome Anderson, 100 Transwestern I, Billings, MT 59101, (406) 248–2611. Transporting *Metal products*, between points in CO, SD, NE, KS, OK, MN, IA, IL, MI, IN, UT and WY, on the one hand, and, on the other, point in MT, ND, WY, SD, NE, IA, CO and NM.

MC 133284 (Sub-1), filed June 1, 1982. Applicant: A. E. WILCOX & SONS TRUCKING, INC., 302 Gale St., Watertown, NY 13601. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, (315) 472–8845. Transporting *pulp, paper and related products*, between points the in U.S. (except AK and HI), under continuing contract(s) with Boise Cascade Corporation, Specialty Paperboard Division, of Boise, ID.

MC 140615 (Sub-70), filed June 1, 1982. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Dennis C. Brown, (same address as applicant), (715) 421–0888. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142204 (Sub-15), filed June 1, 1982. Applicant: GUNVILLE TRUCKING, INC., d.b.a. GUNVILLE TRUCKING, P.O. Box 77, Niagara, WI 54151. Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701, (608) 255–8891. Transporting *pulp, paper and related products*, between points in the Upper Peninsula of MI, on the one hand, and, on the other, points in WI.

MC 142864 (Sub-34), filed June 1, 1982. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215 (614) 464–4103. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Giant Eagle Markets, Inc. and its affiliates.

MC 145034 (Sub-3), filed June 1, 1982. Applicant: SKY TRUCKING CO., 2163 Hancock, San Diego, CA 92110. Representative: Milton W. Flack, 8484 Wilshire Blvd., No. 840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA.

MC 146184 (Sub-7), filed May 26, 1982. Applicant: RUSS TAYLOR TRUCKING, INC., Rt. 6, Watertown, WI 53094. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd. Madison, WI 53719 (608) 273–1003. Transporting *malt beverages*, between points in the U.S. (except AK and HI), under continuing contract(s) with Beloit Beverage Company, Inc. of Beloit, WI, Harry P. Goodall, Inc. of Milton, WI and Monroe Beverage Co., Inc. of Monroe, WI.

MC 146474 (Sub-1), filed June 1, 1982. Applicant: GENDA TRUCKING, INC., 4020 West 24th St., Chicago, IL 60623. Representative: Arnold L. Burke, 180 N. LaSalle St., Suite 3520, Chicago, IL 60601, (312) 332–5106. Transporting *furniture and fixtures*, between points in IL, WI, MI, IN, and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150724 (Sub-12), filed June 1, 1982. Applicant: DONALD SANTISI TRUCKING COMPANY, 340 Victoria Rd., P.O. Box 4125 Youngstown, OH 44515. Representative: Paul F. Berry, 275 E. State St., Columbus, OH 43215, (614) 288–8575. Transporting *machinery*, between points in Alameda County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150855 (Sub-1), filed June 1, 1982. Applicant: RPM TRUCKING & HOTSHOT, INC., P.O. Box 2232, Rock Springs, WY 82901. Representative: Bruce W. Shand, Suite 280, 311 S. State

St., Salt Lake City, UT 84111, (801) 531–1300. Transporting *machinery, equipment and supplies,* used in replacing, servicing and repair of (1) machinery, equipment, materials and supplies used in the refining, manufacture, processing, storage, transmission and distribution of natural gas, petroleum, and geothermal energy and their products and by-products, and (2) machinery, materials, equipment and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines including the stringing and picking up thereof, between those points in the U.S. in and west of ND, SD, NE, KS, OK, TX, and LA (except AK and HI).

MC 153885 (Sub-4), filed June 1, 1982. Applicant: THE GREAT AMERICAN TRUCKING COMPANY, INC., 21 Northlake Drive, Peachtree City, GA 30269. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133–0924, (404) 949–7756. Transporting *food and related products,* between points in Hancock County, OH and points in FL, on the one hand, and, on the other, those points in the U.S. in and east of KS, NE, ND, OK, SD, and TX.

MC 154004 (Sub-2), filed June 1, 1982. Applicant: TRANSPORTATION TECHNIQUES, INC., 10 Potomac Lane, Southington, CT 06489. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, (413) 732–1136. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Double H Enterprises, Inc., of Ware, MA.

MC 155924 (Sub-3), filed June 1, 1982. Applicant: ALANDALE TRUCKING CO., INC., N60 W15725 Kohler Lane, Menomonee Falls, WI 53051. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203, (414) 273–7410. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WI, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, MO, and OH.

MC 157204 (Sub-2), filed June 2, 1982. Applicant: SUR-WAY TRANSPORT, INC., 1506 Radium Springs Rd., Albany, GA 31505. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. (904) 632–2300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Metalux Corporation of Americus, GA and Marks Paper Co. of New Orleans, LA.

MC (Sub-3), filed June , 1982. Applicant: BUD MEYER TRUCK LINES, INC., P.O. Box 97, Theilman, MN 55987. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101, (612) 291–1215. Transporting *paper products and rags,* between points in Somerset County, NJ, on the one hand, and, on the other, points in IL, IA, WA, CA, TX, MO, MN, KS and CO.

MC 160595, filed June 1, 1982. Applicant: GESKE BROS., INC., RR2, Box 38A, Enderlin, ND 58027. Representative: Charles E. Johnson, P.O. Box 2056, Bismark, ND 58502, (702) 223–5300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kraemer Motors, Inc. of Enderlin, ND.

MC 160885, (Sub-1), filed June 2, 1982. Applicant: PONY EXPRESS, INC., P.O. Box 280, Camden, DE 19934. Representative: Lester R. Gutman, 1919 Pennsylvania Ave., NW, Suite 500, Washington, DC 20006, (202) 828–5017. Transporting *plastic products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Consolidated Thermoplastics Company, of Harrington, DE.

MC 162274, filed June 1, 1982. Applicant: WELLCO TRANSPORTATION CO., INC., U.S. Route 41 South, Calhoun, GA 30701. Representative: Robert W. Baker, Jr., 100 S. Charles St., Baltimore, MD 21201. Transporting *floor coverings and related products,* (1) between points in GA and Greenville County, SC, on the one hand, and, on the other, points in the U.S. (except AK, CO, HI, ID, MT, OR, WA, WY, and VT); and (2) between points in NJ and Kings County, NY, Lancaster County, PA, and Cook County, IL, on the one hand, and, on the other, points in Jefferson County, AL.

MC 162275, filed June 1, 1982. Applicant: AL ARNOLD, 2671 Dauphin Island Parkway, Mobile, AL 36605. Representative: Al Arnold, (same address as applicant), (205) 471–1066. As a *broker* at Mobile, AL, in arranging for the transportation of *passengers and their baggage,* in the same vehicle with passengers, beginning and ending at points in Mobile and Baldwin Counties, AL, and extending to points in the U.S.

MC 162284, filed June 1, 1982. Applicant: KENNEDY BUS SERVICE, d.b.a. KENNEDY COACHES, P.O. Box 179, Zumbro Falls, MN 55991. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points on Goodhue, Olmstead and Wabasha Counties, MN, and extending to points in the U.S. (except HI).

MC 162285, filed June 1, 1982. Applicant: DOWNING TRANSPORTS, INC., Box 308, Locust Grove, OK 74352. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 No. Classen Blvd., Oklahoma City, OK 73118, (405) 848–7946. Transporting *anhydrous ammonia, liquified petroleum gas and casinghead gasoline,* between points in AR, KS, OK, MO and TX.

MC 162295, filed June 1, 1982. Applicant: CATHOLIC TOURS OF OHIO, INC., 4120 Euclid Avenue, Cleveland, OH 44103. Representative: Ralph A. Youniss, (same address as applicant), (216) 431–8854. As a *broker,* at Cleveland, OH, in arranging for the transportation by motor vehicle of *passengers and their baggage,* beginning and ending at points in Lorain, Cuyahoga, Lake, Geauga, Ashland, Medina, Summit, and Wayne Counties, OH, and extending to points in the U.S. (except AK and HI).

MC 162304,, filed June 1, 1982. Applicant: MARK E. SILVERMAN d.b.a. MARK'S MOVING SERVICE, 284 California St., Newton, MA 02158. Representative: George C. O'Brien, 342 Wild Harbor Rd., P.O. Box 293, North Falmouth, MA 02556, (617) 563–9345. Transporting *advertising and exhibition material, equipment and displays,* between points in MA, NH, RI, and CT, under continuing contract(s) with Preview Subscriptions Television, Inc. of Norwood, MA.

Volume No. OP3–091

Decided: June 14, 1982.

By the Commission, Review Board No. 2 Members Carleton, Fisher, and Williams.

MC 16334 (Sub-21), filed June 7, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212. Transporting *metal products,* between points in Clay and Jackson Counties, MO, and Johnson, Miami, and Wyandotte Counties, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 97825 (Sub-7), filed June 1, 1982. Applicant: LOUISIANA MIDLAND TRANSPORT CO., INC., 3679 Florida Blvd., Baton Rouge, LA 70806.

Representative: Carlos G. Spaht, P.O. Box 2997, 500 Laurel St., Baton Rouge, LA 70821, (504) 383–4703. Transporting *cement*, between points in Orange County, TX, on the one hand, and, on the other, points in LA.

MC 114274 (Sub-83), filed June 1, 1982. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th Street Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North La Salle Street, Chicago, IL 60601, (312) 332–5106. Transporting *glass containers*, between Gulfport, MS, Chattanooga, TN, points in Knox County, OH, Navarro County, TX, and Mineral County, WV, on the one hand, and, on the other, points in the U.S. in and east of MN, WI, IN, KY, TN, AR, OK, and TX.

MC 127955 (Sub-12), filed June 7, 1982. Applicant: RICCI TRANSPORTATION CO., INC., Odessa Ave. & Aloe St., Pomona, NJ 08240. Representative: Joseph A. Keating, Jr., 121 S. Main St. Taylor, PA 18517, (717) 344–8030. Transporting *foodstuffs and related products*, (1) between points in Lehigh County, PA, on the one hand, and, on the other, points in Atlantic and Cape May Counties, NJ; and (2) between points in Duval and Hillsborough Counties, FL, Hillsborough County, NJ and Onondago County, NY, on the one hand, and, on the other, points in Atlantic County, NJ.

MC 143654, filed June 3, 1982. Applicant: DOYLE BRANT, INC., Route 4, Grand Terrace Estates, St. Joseph, MO 64507. Representative: Tom B. Kretsinger, 20 E. Franklin, P.O. Box 258, Liberty, MO 64068, (816) 781–6000. Transporting *malt beverages* and *empty containers*, between points in Buchanan County, MO, on the one hand, and, on the other, points in Tarrant County, TX.

MC 145904 (Sub-42), filed June 7, 1982. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927–8855. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of metal products and machinery, between points in Black Hawk County, IA, on the one hand, and, on the other, points in the U.S. (except HI).

MC 149014 (Sub-8), filed June 3, 1982. Applicant: EAGLE LINES INC., P.O. Box 902, Merrimack, NH 03054. Representative: Henry Sepessy, 10 Canterbury Way, Merrimack, NH 03054, (603) 424–7030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NH and MA, on the one hand, and, on the other, points in the U.S. (except HI).

MC 151365 (Sub-5), filed June 2, 1982. Applicant: MAC OF WISCONSIN, INC., 26 Lake View Dr., Sullivan, WI 53178. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, on the one hand, and, on the other, points in the U.S. (except HI).

MC 152744 (Sub-8), filed June 7, 1982. Applicant: CITADEL TRANSPORT, INC., 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601. Representative: Thomas M. O'Brien, 180 N. Michigan Ave., Suite 400, Chicago, IL 60601, (312) 263–1600. Transporting *such commodities* as are dealt in by manufacturers and distributors of chewing gum and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with Wm. Wrigley, Jr. Company, of Chicago, IL.

MC 154014 (Sub-2), filed June 1, 1982. Applicant: ALLEN TRUCK & TRAILER LEASING, INC., P.O. Box 724, Connellsville, PA 155425. Representative: Guy H. Postell, Suite 675, 3384 Peachtree Rd., N.E., Atlanta, GA 30326, (404) 237–6472. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Blair, Bedford, Beaver, Butler, Fayette, Greene, Indiana, Somerset and Westmoreland Counties, PA, on the one hand, and, on the other, points in MD, MA, DE, CT, NJ, NY, RI, VA, PA, TN, OH, WV, KY, ME, NC, SC, GA, IL, IN, MI and DC and (2) *clay, concrete, glass or stone products*, between points in PA, NJ, MA, RI, ME, CT, MD, WV, NC, SC, GA, TN, IL, OH, IN, MI and VA.

MC 159384, filed June 7, 1982. Applicant: DAVID KURK, INC., P.O. Box 112, Eitzen, MN 55931. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *commodities in bulk*, between points in Lee County, IA, on the one hand, and, on the other, points in IL, MN, and WI.

MC 161124, filed June 3, 1982. Applicant: C. TILE TRANSPORTATION, INC., 3rd & Throckmorton, Tandy Tower Two, Fort Worth, TX 76012. Representative: Dean O'Leary, 1820 Two Tandy Center, Fort Worth, TX 76102, (817) 390–3028. Transporting *building materials*, between points in the U.S. (except AK and HI).

MC 161255, filed June 1, 1982. Applicant: VERNON TIPTON, 1208 W. Benton, Savannah, MO 64485. Representative: Frank W. Taylkor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105, (816) 221–1464. Transporting *iron and steel articles*, between points in IL, IN, KS, and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162224, filed May 27, 1982. Applicant: SCOTT INTERSTATE TRANSPORTATION, INC., P.O. Box 213, Plainfield, IL 60544. Representative: Arnold L. Burke, 180 No. LaSalle St., Suite 3520, Chicago, IL 60601, (312) 332–5106. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Distillers Company Limited of Plainfield, IL, Peterson Manufacturing Co., Inc. of Plainfield, IL and Kerr Glass Manufacturing Corporation of Sand Springs, OK.

MC 162305, filed June 1, 1982. Applicant: TEDDY T. RABY (Jack), d.b.a. CROSS COUNTRY BOAT TRANSPORT, 4695 Fatima Place, Excelsior, MN 55331. Representative: Teddy T. Raby (Jack), (same address as applicant), (612) 474–8517. Transporting *powerboats* and *sailboats*, between points in the U.S. (except AK and HI).

MC 162325, filed June 3, 1982. Applicant: BELVA RICE, d.b.a. 916 Main, Box 1022, Woodward, OK 73802. Representative: Belva Rice (same address as applicant), (405) 256–5378. As a *broker*, at Woodward, OK, in arranging for the transportation by motor vehicle of *passengers and their baggage*, in charter operations, between points in the U.S.

MC 162364, filed June 7, 1982. Applicant: RICHARD E. BERRY, d.b.a. RICHARD E. BERRY TRUCKING, Route 5, Box 508, Springdale, AR 72764. Representative: James H. Berry, P.O. Box 32, Wesley, AR 72773, (501) 456–2453. Transporting *cement products*, between points in AR, KS, MO, and OK.

Volume No. OP4–208

Decided: June 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 31237 (Sub-14), filed June 1, 1982. Applicant: DIGNAN TRUCKING, INC., P.O. Box 7463, Baltimore, MD 21227. Representative: Frank B. Hand, Jr., 523 S Cameron St., Winchester, VA 22601, (703) 662–0927. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), serving points in Clarke, Frederick, Fauquier, and Warren Counties, VA, Berkeley, Morgan, and Jefferson Counties, WV, as off-route points in connection with carrier's

otherwise authorized regular-route operations.

MC 47417 (Sub-6), filed June 1, 1982. Applicant: MILLS TRANSFER, INC., 656 Rose St., Lincoln, NE 68502. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Over regular routes, transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Omaha and Lincoln, NE, from Omaha over U.S. Hwy 6 to Lincoln, and (2) *motion picture films, newspapers and express packages*, (a) between Lincoln and Wymore, NE, from Lincoln over U.S. Hwy 77 to Wymore, (b) between Beatrice and Red Cloud, NE, from Beatrice over U.S. Hwy 136 to Red Cloud, (c) between Lincoln and Hastings, NE, from Lincoln over U.S. Hwy 6 to Hastings, (d) between Lincoln and Aurora, NE, from Lincoln over U.S. Hwy 34 to Aurora, (e) between Aurora, NE and the junction of U.S. Hwy 6 and NE Why 14, from Aurora over NE Hwy 14 to junction U.S. Hwy 6, (f) between the junction of U.S. Hwy 6 and NE Hwy 33 and the junction of NE Hwy 33 and U.S. Hwy 77, fron the junction U.S. Hwy 6 and NE Hwy 33 over NE Hwy 33 to junction U.S. Hwy 77, (g) between Beatrice, NE, and the junction of NE Hwys 103 and 33, from Beatrice over NE Hwy 4 to junction NE Hwy 103, then over NE Hwy 103 to junction NE Hwy 33, and (h) serving Davenport, Bruning Superior, Guide Rock, Harvard, Clay Center, Fairfield, Geneva and Wahoo, NE, as off-route points in connection with carrier's authorized regular route operations described in (2).

Condition: Issuance of a certificate in this proceeding is subject to prior or coincident cancellation, at applicants written request, of Certificate of Registration Nos. MC–47417 Sub 4 and Sub 5.

Note—Applicant intends to tack.

MC 107947 (Sub-4), filed June 7, 1982. Applicant: MURTY BROS. AGENCY, INC., 109 Plainfield, P.O. Box 427, Elmont, NY 11003. Representative: Mark J. Andrews, Suite 1100, 1660 L St., N.W., Washington, DC 20036, (202) 452–7438. Transporting *livestock*, other than ordinary livestock, and in the same vehicle with such livestock, *mascots, personal effects* of attendants, trainers and exhibitors, and *supplies* and *equipment* used in the care and exhibition of such animals, between points in U.S. (except AK and HI).

MC 140267 (Sub-13), filed June 7, 1982. Applicant: R. A. TRANSPORTATION, INC., P.O. Box 574, Edison, NJ 08817. Representative: Thomas J. Beener, 67 Wall St., Suite 2510, New York, NY 10005. Transporting *such commodities*, as are dealt in by grocery and department stores and food business houses, between points in the U.S., under continuing contract(s) with Lever Brothers Company, of New York, NY

MC 141157 (Sub-3), filed June 3, 1982. Applicant: B AND E COMPANY, Box 268, Sheffield, IA 50475. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *brick products, clay products and plastic tubing*, between points in the U.S. (except AK and HI), under continuing contract(s) with Sheffield Brick & Tile Co., of Sheffield, IA.

MC 146337 (Sub-2), filed June 1, 1982. Applicant: NEW WEST TRANSPORTATION, INC., 17090 S 54th St., Chandler, AZ 85224. Representative: A. Michael Bernstein, 1441 E Thomas Rd., Phoenix, AZ 80514, (602) 264–4891. Transporting (1) *those commodities which because of size or weight require the use of special handling or equipment*, (2) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), when moving in connection with those commodities named in (1) above, (3) *construction materials and equipment*, (4) *machinery*, and (5) *self-propelled vehicles*, between points in WA, OR, CA, ID, NV, AZ, MT, UT, NM, NE, SD, ND, WY, CO, TX, OK and KS. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidential cancellation, at applicant's written request, of Certificate of Registration No. MC–146333.

MC 146457 (Sub-8), filed June 7, 1982. Applicant: PAISLEY TRUCKING, INC., P.O. Box 208, Durango, IA 52309. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *fertilizer*, between points in Jo Daviess County, IL, on the one hand, and, on the other, points in IA.

Volume No. OP4–209

Decided: June 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 120657 (Sub-10), filed June 3, 1982. Applicant: DUGAN TRUCK LINE, INC., 1407 S. Walnut, Wichita, KS 67213. Representative: Paul V. Dugan, 2707 W. Douglas, Wichita, KS 67213 (316) 943–2325. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between Kansas City, MO and Denver, CO over Interstate Hwy 70, (2) between Kansas City, MO and Oklahoma City, OK over Interstate Hwy 35, (3) between Kansas City, MO and Tulsa, OK, from Kansas City over Interstate Hwy 35 to junction Cimarron Turnpike, then over Cimarron Turnpike to Tulsa, and (4) serving in connection with routes (1) through (3) all intermediate points and all points in Kansas as off-route points.

Note.—Applicant intends to tack the above authority with its existing authority.

MC 149157 (Sub-9), filed June 7, 1982. Applicant: STYLE CRAFT TRANSPORT, INC., Highway 71 So., Milford, IA 51351. Representative: Foster L. Kent, P.O. Box 285, Council Bluffs, IA 51502, (712) 323–9124. Transporting *such commodities* as are dealt in or used by distributors of electronic games, between points in the U.S., under continuing contract(s) with Central Distributing Co., of Omaha, NE.

MC 150767 (Sub-2), filed June 7, 1982. Applicant: SMITH & CALDWELL TRUCKING, INC., 404 Wayne Ave., Pine Beach, NJ 08741. Representative: Ronald I. Shapss, 450–7th Ave., New York, NY 10123, (212) 239–4610. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Right-O-Way, Inc., of Newark, NJ.

MC 159027 (Sub-3), filed June 7, 1982. Applicant: EXPRESSWAY, INC., P.O. Box 697, Greer, SC 29651. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606, (803) 288–6000. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between points in AL, FL, GA, NC, SC, and TN, and (2) between points in AL, FL, GA, NC, SC and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162327, filed June 3, 1982. Applicant: DUANE M. HUSTON and CAROLE M. HUSTON, d.b.a. D & C TRUCKING, P.O. Box 148, Molalla, OR 97038. Representative: Lawrence V. Smart, Jr., 419 N W 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting (1) *metal products*, between points in OR, WA, ID, MT, WY and UT; and (2) *lumber and wood products*, between points in OR and WA.

MC 162367, filed June 7, 1982. Applicant: JOHN REPP, d.b.a. WESTERN COACHES, 2313 Moffett, Lufkin, TX 75901. Representative: Paul D. Angenend, P.O. Box 2207, 1806 Rio Grande, Austin, TX 78768, (512) 476–6391. Transporting *passengers and their baggage*, in charter and special operations, beginning and ending at

points in TX on and east of U.S. Hwy 75, and extending to points in the U.S. (except AK and HI).

Volume No. OP4-211

Decided: June 10, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 145566 (Sub-14), filed June 7, 1982. Applicant: B & K ENTERPRISES, INC., 7950 S. 27th St., Oak Creek, WI 53154. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840-8565. Transporting *those commodities which because of size or weight require the use of special handling or equipment,* (2) *metal products,* and (3) *machinery,* on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150716 (Sub-3), filed June 7, 1982. Applicant: J.R.S. LEASING CHARTER, INC., 9445 South 51st Ave., Oak Lawn, IL 60453. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, (312) 263-2306. Transporting *such commodities* as are dealt in or used by the manufacturers and converters of paper and wood products, between points in the U.S. (except AK and HI), under continuing contract(s) with Diamond International Corporation, of New York, NY.

MC 162276, filed June 1, 1982. Applicant: CALIFORNIA DISTRIBUTION SERVICES, INC., P.O. Box 6068, Cerritos, CA 90701. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655-3573. Transporting (1) *plastic products,* (2) *food and related products,* (3) *such commodities* as are dealt in by manufacturers and distributors of animal pet care products, and (4) *plastic and metal containers,* between points in the U.S. (except AK and HI), under continuing contract(s) with Premium Plastics, Inc., of Chicago, IL, Casa American Foods, of Los Angeles, CA, Sanwa Foods, Inc., of City of Industry, CA, Kal Kan Foods, Inc., of Vernon, CA, and Gott Corporation, of Winfield, KS.

MC 162286, filed June 1, 1982. Applicant: LARRY H. NICHOLAS, d.b.a. LARRY H. NICHOLAS CO., 50 Cedar St., Winchendon, MA 01745. Representative: George C. O'Brien, 342 Wild Harbor Rd., P.O. Box 293, North Falmouth, MA 02556, (617) 563-9345. Transporting (1) *packinghouse products,* and (2) *perishable foodstuffs,* between Boston, MA, on the one hand, and, on the other, point in NH.

Volume No. OP4-212

Decided: June 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 151566 (Sub-23), filed June 1, 1982. Applicant: PERRY TRANSPORT, INC., 14375 172nd Ave., Grand Haven, MI 49417. Representative: Richard O. Peel, (same address as applicant), (616) 842-3550. Transporting *formed steel channels,* between Grand Haven, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Industrial Products Division, of Grand Haven, MI.

MC 155266 (Sub-5), filed June 1, 1982. Applicant: JOHN J. VETERI LEASING CORP., P.O. Box 624, West Paterson, NJ 07424. Representative: John J. Veteri (same address as applicant), (201) 785-8775. Transporting *iron and steel and iron and steel articles,* between Philadelphia, PA, Baltimore, MD, and points in Erie County, NY, on the one hand, and, on the other, Chicago, IL, and points in Salk County, WI, Nardin County, IA, Hillsborough County, NH, Allegheny County, PA, Rockingham County, NC, Middlesex County, MA, Providence County, RI, CT, MI, NJ, and NY.

MC 157616 (Sub-1), filed June 1, 1982. Applicant: NAVAJO EXPRESS, INC., 5150 Brighton Blvd., Denver, CO 80216. Representative: Charles J. Kimball; 1600 Sherman, #665, Denver, CO 80203, (303) 839-5856. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with United Forwarding, Inc., of Omaha, NE, and (2) *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Packers' Cold Storage, Inc., of Fullerton, CA.

MC 161526, filed June 1, 1982. Applicant: QUALITY OPERATIONS, INC., 870 E. Higgins Rd., Suite 143, Schaumburg, IL 60195. Representative: William H. Borghesani, Jr., 1150 17th St., NW, Suite 1000, Washington, DC 20036, (202) 457-1122. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Quaker Oats Company, of Chicago, IL.

MC 162296, filed June 1, 1982. Applicant: GALMONT AUTOMOTIVE SERVICES, 4446 Mission St., San Francisco, CA 94112. Representative: Carlos H. Galvis, (same address as applicant), (415) 587-5666. Transporting *passenger and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in San Francise, Alameda, Contra Costa, Martin, San Mateo, and Santa Clara Counties, CA, and extending to points in AZ, GA, CO, ID, NV, NM, OR, UT, MT, WY, and WA.

Volume No. OP4-217

Decided: June 15, 1982.

By the Commission, Review Board No. 2, Members Carleston, Fisher, and Williams.

MC 113666 (Sub-198), filed May 27, 1982. Applicant: FREEPORT TRANSPORT, INC., P.O. Drawer A, Freeport, PA 16229-0301. Representative: R. Scott Mahood (same address as applicant), (412) 295-2181. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).

MC 124896 (Sub-108), filed June 3, 1982. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne & Ralston Sts., P.O. Box 3489, Wilson, NC 27893. Representative: Norman J. Philion, 1920 N St., NW., Suite 700, Washington, DC 20036, (202) 331-8800. Transporting *machinery,* between points in the U.S. (except AK and HI).

MC 145246, (Sub-3), filed June 3, 1982. Applicant: A. E. SCHULTZ CORPORATION, 901 Lyndale Ave., Neenah, WI 54956. Representative: Frank M. Coyne, 25 W. Main St., Madison, WI 53703, (608) 255-1388. Transporting *paper and paper products,* between points in Marathon, Winnebago, Brown, Fond du Lac, Shawno and Outagamie Counties, WI, on the one hand, and, on the other, points in WY, MT, ID, UT, ND, SD, NE, MN, MI, IL, IN, and CO.

MC 151166 (Sub-2), filed June 3, 1982. Applicant: GERRY'S TRANSPORT LEASING, INC., 103-17 Metropolitan Ave., Forest Hills, NY 11375. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836-1144. Transporting *floor covering,* between points in (1) NY, on the one hand, and, on the other, points in GA, TN, NC, and SC, (2) GA, on the one hand, and, on the other, points in VA, TN, SC, FL, CO, TX, and GA, and (3) NY and GA, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, and CT.

Volume No. OP4-221

Decided: June 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

FF-596, filed May 10, 1982, previously noticed in the **Federal Register** issue of May 26, 1982, and republished this issue.

Applicant: DIRECT CONTAINER LINE, INC., 16225 Sth Broadway, Gardena, CA 90248. Representative: Abraham A. Diamond, 29 South LaSalle St., Chicago, IL 60603, (312) 236–0548. As a freight forwarder, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., on the one hand, and on the other, ports of entry of the U.S. Note: The purpose of this republication is to correct the territorial description.

Volume No. OP5–132

Decided: June 14, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF–529 (Sub-1), filed June 1, 1982. Applicant: MEGNA FORWARDING, INC., Route 9, Wilder, KY 41071. Representative: Stephen D. Strauss, 2510 Carew Tower, Cincinnati, OH 45202, (513) 621–4607. To engage in operations as a *freight forwarder*, in interstate commerce, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Louisville, KY, Dayton and Cincinnati, OH, Indianapolis, IN, Atlanta and Savannah, GA, and Knoxville and Nashville, TN, on the one hand, and, on the other, points in the U.S., restricted to export-import traffic.

MC 50128 (Sub-6), filed June 3, 1982. Applicant: BAGBY TRANSFER COMPANY, 405 Forsythe St., Rome, GA 30161. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *household goods*, (a) between points in NC, SC, GA, AL, TN, VA, and FL, and (b) between points in NC, SC, GA, AL, TN, VA, and FL, on the one hand, and, on the other, points in KY, VA, WV, MD, DE, PA, NJ, NY, CT, RI, MA, ME, NH, VT, MS, LA, TX, AR, OH, IN, IL, WI, MO, MI, and DC.

MC 109689 (Sub-380), filed May 26, 1982. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, 10 West Broadway Bldg., Suite 400, Salt Lake City, UT 84101, (801) 363–3550. Transporting *Gilsonite and Gilsonite products*, between points in Utah, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 133288 (Sub-6), filed June 7, 1982. Applicant: HARTLEY TRUCKING COMPANY, INC., P.O. Box 398, Ravenswood, WV 26164. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526, (304) 562–3460. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Kaiser Aluminum & Chemical Corporation of Oakland, CA.

MC 141459 (Sub-24), filed May 25, 1982. Applicant: AGS ENTERPRISES, INC., #1 Clyde Ave., Litchfield, IL 62056. Representative: Michael R. Solomon (same address as applicant) (217) 324–2135. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Fresno and Los Angeles, CA, Kansas City, KS, and points in Orange County, CA, Johnson and Douglas Counties, KS, Howard County, MD, and Greene County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141898 (Sub-6), filed May 24, 1982. Applicant: ROBERTS EXPRESS, INC., P.O. Box 7162, Akron, OH 44306. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212, (614) 481–8821. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), moving in express service, (a) between points in OH, MI, and IN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (b) between points in CT, DE, GA, IN, IL, KY, MD, MA, MI, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, and DC.

MC 142958 (Sub-4), filed May 21, 1982. Applicant: EMERGENCY MEDICAL DELIVERIES, INCORPORATED, 230 Arco Dr., Toledo, OH 43607. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603, (419) 255–8220. Transporting (1) *medicinal intravenous solutions, dialysis patient treatment kits, mineral water, and liquid formaldehyde*, and (2) *materials and supplies* used in the administration of the commodities in (1) above, between Detroit, MI, on the one hand, and, on the other, Chicago, IL, those points in PA west of Interstate Hwy 83 and U.S. Hwy 15, and points in IN, KY, OH, and WV.

MC 144369 (Sub-3), filed June 8, 1982. Applicant: GERARDO & SON MOTOR SERVICE, INC., 9850 Balmoral Ave., Rosemont, IL 60018. Representative: Donald S. Mullins and T. M. Schlechter, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298–1094. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, OH, TN, and WI.

MC 146229 (Sub-4), filed June 8, 1982. Applicant: SCHMIDT TRUCKING CO. OF STANDISH, 5665 Bordeau Road, Standish, WI 48658. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684, (616) 941–5313. Transporting *machinery* and *machinery parts*, between points in Franklin County, OH, on the one hand, and, on the other, points in MI.

MC 150788 (Sub-3), filed June 3, 1982. Applicant: SPECIAL SERVICE DELIVERY OF MICHIGAN, INC., 10174 Highland Road, Pontiac, MI 48054. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215, (615) 228–1541. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of photographic products between Detroit, MI and Cleveland, OH, on the one hand, and, on the other, points in MI and IN.

MC 151509 (Sub-24), filed May 24, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario Street, Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant), (216) 566–2677. Transporting *general commodities* (except household goods and classes A and B explosives), between points in OH, IL, NY, KS, GA, TX, and CA, under continuing contract(s) with Commercial Transportation Management Services, Inc., of Parma, OH.

MC 152509, (Sub-25), filed May 24, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant), (216) 566–2677. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with ITOFCA, INC., of Downers Grove, IL.

MC 159368, filed June 1, 1982. Applicant: DISTRIBUTION EXPRESS, INC., 6836 Prior Pl., Reynoldsburg, OH 43068. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and used household goods), between points in IL,IN, KY, MI, NY, OH, PA, and WV.

MC 161029, filed June 4, 1982. Applicant: CONSCHULL CONTINENTAL LINES, INC., 620 Jefferson Street, Plymouth, IN 46563. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. Transporting *passengers and their baggage* in same vehicle with passengers, in charter operations between points in the U.S. (except HI), under continuing contract(s) with Rainbow Travel, Inc., of Plymouth, IN.

MC 161388, filed June 1, 1982. Applicant: N.E.W.S. TRANSPORTATION, INC., P.O. Box 1242, 3152 Princeton Drive, Granite City, IL 62040. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703, (217) 528–8476. Transporting *iron and steel articles*, (a) between St. Louis MO, and Points in Madison County, IL, on the one hand, and, on the other, points in AL, AR, IL, IN, IA, KS, KY, LA, MO, OH, OK, TN, TX, WI, GA, MI, MN, NE, MS, ND, SD, and CO, (b) between points in Pettis County, MO, on the one hand, and, on the other, points in IL and KS, (c) between points in Franklin County, MO, on the one hand, and, on the other, points in TN, and (d) between points in AL, on the one hand, and, on the other, points in IL and MO.

MC 161838, filed June 8, 1982. Applicant: LOCKE TRUCKING CO., 410 Library Lane, Streamwood, IL 60103. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, (312) 726–6525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162258, filed June 1, 1982. Applicant: WALTER A. GLICK, SR., d.b.a. RICK & GLICK TOURS, 990 North Ridge Rd. West, Lorain, OH 44053. Representative: Walter A. Glick, Sr. (same address as applicant), 216–233–6845. As a *broker* at Lorain, OH, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers in charter operations, beginning and ending at Lorain, OH, and extending to points in the U.S. (except AK and HI).

MC 162269, filed June 1, 1982. Applicant: BATCO TRUCKING, INC. 4800 Coliseum Way, Oakland, CA 94601. Representative: Ann M. Pougiales, 100 Bush St., 21st Floor, San Francisco, CA 94104, (415) 986–5778. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (I) over REGULAR ROUTES, (a) between San Francisco, CA and junction Interstate Hwy 80 and Alternate U.S. Hwy 50 near Fernley, NV, over Interstate Hwy 80, (b) between Sacramento, CA and Fallon, NV, over U.S. Hwy 50, (c) between Los Angeles, CA and Las Vegas, NV, over Interstate Hwy 10 to junction Interstate Hwy 15, then over Interstate Hwy 15 to Las Vegas, and return over the same route, (d) between San Francisco, CA and Los Angeles, CA, over Interstate Hwy 101, (e) between Sacramento, CA and San Diego, CA, over Interstate Hwys 5, (f) between Oakland, CA and junction Interstate Hwy 5 and 580, over Interstate Hwy 580, (g) between Sacramento, CA and junction Interstate Hwy 5 and U.S. Hwy 99, over U.S. Hwy 99, (h) between Reno, NV and junction U.S. Hwy 395 and Interstate Hwy 15, over U.S. Hwy 395, and (i) between junction U.S. Hwy 50 and Alternate U.S. Hwy 50 near Fallon, NV and junction Alternate U.S. Hwy 50, and Interstate Hwy 80 near Fernley, NV, over Alternate U.S. Hwy 50, serving all intermediate points on routes (a) through (i) above, all off-route points in CA, and the off-route points of Carson City, Churchill, Clark Douglas, Lyon, Storey and Washoe Counties, NV; and (II) over irregular routes, between points in CA and NV.

MC 162279, filed June 1, 1982. Applicant: INTERSTATE FARM LINES, INC., Route 1, Twin Falls, ID 83301. Representative: Kevin M. Clark, 2471 Bank Dr., Ste. 8, Boise, ID 83705, (208) 344–7714. Transporting *construction materials and supplies*, and *farm and ranch equipment and supplies*, between points in WA, OR, CA, AZ, NM, UT, CO, ID, MT, WY, and NV.

MC 162348, filed June 3, 1982. Applicant: BLUEGRASS TOURS, INC., 410 West Vine, Suite 100, Lexington, KY 40507. Representative: William L. Willis, 702 McClure Bldg, Frankfort, KY 40601, (502) 227–7384. Transporting *passengers and their baggage* in same vehicle with passengers, in special and charter operations, between points in Clark, Bourbon, Fayette, Franklin, Jessamine, Scott, and Woodford Counties, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162369, filed June 7, 1982. Applicant: SUBURBAN TOURS, INC., 2121 West Chestnut St., Washington, PA 15301. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. To operate as a *broker* at Washington, PA, arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, in charter operations between points in the U.S.

MC 162388, filed June 7, 1982. Applicant: ARIZONA BUS SALES, INC., d.b.a. ARIZONA CHARTER ENTERPRISES, 4028 S. 36th St., Phoenix, AZ 85040. Representative: George Tillery (same address as applicant) (602) 243–7141. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in AZ, and extending to points in CA, UT, NV, NM, and Co.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-16780 Filed 6-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume OP-5-131]

Motor Carriers: Permanent Authority; Republications of Grants of Operating Rights Authority; Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of petition for leave to intervene must be filed with the Commission within 30 days after the date of this **Federal Register** notice addressing specifically the issue(s) indicated as the purpose for republication.

Agatha L. Mergenovich,

Secretary.

MC 110288 (Sub-25) (republication), filed February 2, 1982, published in the **Federal Register issue** of February 19, 1982, and republished this issue. Applicant: HENRY HENERY, INC., 3517 W. Washington St., Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. An Order of the Commission, Review Board 3, decided April 27, 1982, and served May 7, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *lumber, forest products, and wood products*, between points in the United States (except Hawaii) and (2) *wood burning stoves* between points in Kootenai County, ID, on the one hand, and, on the other, points in the United States (except Hawaii), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the applicant's actual grant of authority.

MC 158389 (Sub-1) (republication), filed January 15, 1982, published in the **Federal Register** February 24, 1982, and republished this issue. Applicant: JAMES C. CHILSON, d.b.a. INLAND DISTRIBUTORS, N. 4215 Willow Road, Spokane, WA 99206. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009, (206) 453–0312. An Order of

the Commission, Review Board 1, decided April 30, 1982, and served May 12, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *machinery, machinery parts, commodities which because of size or weight require special equipment, iron and steel articles, aluminum articles, and pipe*, between points in Washington, Idaho, Oregon, Montana, Utah, California, and Wyoming, on the one hand, and, on the other, points in Washington, Idaho, Oregon, Montana, Nevada, Utah, Colorado, California, and Wyoming, (2) *construction materials and dolomite rock* between points in Montana and Washington, on the one hand, and, on the other, points in Washington, Idaho, Oregon, Montana, California, and Wyoming, and (3) *lumber and wood products*, between points in Washington, Idaho, Oregon, Montana, California, and Wyoming, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the applicant's actual grant of authority.

[FR Doc. 82-16778 Filed 6-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 415]

Railroad Cost of Capital—1981

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: On June 24, 1982, the Commission served a decision to update its estimate of the railroad industry's cost of capital for 1981. The composite cost of capital for 1981 is found to be 16.5 percent based on a current cost of debt of 13.7 percent; a cost of equity capital of 18.3 percent; and a 40/60 debt/equity capital structure mix. The cost of capital findings made in this proceeding will enable the Commission to make its annual determination of railroad revenue adequacy for 1981. The scope of the decision is specifically limited to the required annual updating of the railroads' cost of capital.

ADDRESSES: To purchase copies of the full decision contact: TS Infosystems Inc., Room 2227, 12th & Constitution Avenue, N.W., Washington, DC 20423, (202) 289-4357—DC Metropolitan Area, (800) 424-5403—toll free for outside DC area.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr. (202) 275-7489.

SUPPLEMENTARY INFORMATION: The cost of capital findings in this decision should be utilized to evaluate the adequacy of railroad revenues for 1981, under the procedures and standards promulgated in Ex Parte No. 393, *Standards for Railroad Revenue Adequacy*, 364 ICC 803 (1981). These findings may also be utilized in proceedings involving the prescription of maximum reasonable rate levels.

Dated: June 11, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-16776 Filed 6-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 154)]

Railroads; Consolidated Rail Corp. Exemption for Contract Tariff ICC-CR-C-0105

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7277.

SUPPLEMENTARY INFORMATION: Consolidated Rail Corporation (CR) filed a petition on June 5, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-CR-C-0105 to become effective on June 14, 1982.[1] The contract was filed to become effective on July 8, 1982 and involves movement of steel products, machinery, and miscellaneous metal products.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief to allow contracts to become effective on one day's notice under our section 10505 exemption authority in exceptional situations.

[1] Because of the lateness in filing the petition, the June 14 date could not be met.

The petition shall be granted to allow the contract to become effective on one day's notice. Advancement of the contract's effective date will prevent curtailment of the contracting shipper's production schedule and avoid layoffs of numerous employees. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Conrail's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

Although the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Dated: June 16, 1982.

By the Commission, Division 2, Commissioners Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16777 Filed 6-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29825]

Railroads; New York State Department of Transportation; Consolidated Rail Corp. Between Maybrook and Warwick, NY; Intent To Purchase

On June 1, 1982, the New York State Department of Transportation (NYSDOT) filed a notice of its intent to request the Commission to require the sale of trackage. NYSDOT seeks to acquire the Hudson Secondary track of the Consolidated Rail Corporation (Conrail) between Maybrook (milepost

0.0) and Warwick (milepost 21.0), a distance of 21.0 miles, pursuant to the feeder line development provisions of 49 U.S.C. 10910.

NYSDOT's application may be filed after August 30, 1982, (90 days after its notice). When an application is filed, any interested party may submit comments or recommendations to the Commission within 30 days and any financially responsible person may propose to acquire the property through a competing application, also within 30 days. All pleadings should refer to Finance Docket No. 29825 and should be submitted, with 10 copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423. A copy should also be sent to Louis Rossi, Director, Rail Division, N.Y.S. Department of Transportation, 1220 Washington Avenue, NY 12232.

For further information contract Wayne A. Michel (202) 275–7657 or Louis E. Gitomer (202) 275–7245 at the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-16774 Filed 6-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29819]

Railroads; New York State Department of Transportation; Consolidated Rail Corp. Between Middletown and Fair Oaks, NY; Intent To Purchase

On June 1, 1982, the New York State Department of Transportation (NYSDOT) filed a notice of its intent to request the Commission to require the sale of trackage. NYSDOT seeks to acquire the Crawford Industrial track of the Consolidated Rail Corporation (Conrail) between Middletown (milepost 0.0) and Fair Oaks (milepost 4.9), a distance of 4.9 miles, pursuant to the feeder line development provisions of 49 U.S.C. 10910.

NYSDOT's application may be filed after August 30, 1982, (90 days after this notice). When an application is filed, any interested party may submit comments or recommendations to the Commission within 30 days and any financially responsible person may propose to acquire the property through a competing application, also within 30 days. All pleadings should refer to Finance Docket No. 29819 and should be submitted, with 10 copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423. A copy should also be sent to Louis Rossi, Director, Rail Division, N.Y.S. Department of Transportation, 1220 Washington Avenue, NY 12232.

For further information contact Wayne A. Michel (202) 275–7657 or Louis E. Gitomer (202) 275–7245 at the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-16773 Filed 6-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29827]

Railroads; New York State Department of Transportation; Consolidated Rail Corp. Between MQ Junction and Montgomery, NY; Intent To Purchase

On June 1, 1982, the New York State Department of Transportation (NYSDOTO filed a notice of its intent to request the Commission to require the sale of trackage. NYSDOT seeks to acquire the Montgomery Industrial track of the Consolidated Rail Corporation (Conrail) between MQ Junction (milepost 0.0) and Montgomery (milepost 5.5), a distance of 5.5 miles, pursuant to the feeder line development provisions of 49 U.S.C. 10910.

NYSDOT's application may be filed after August 30, 1982, (90 days after its notice). When an application is filed, any interested party may submit comments or recommendations to the Commission within 30 days and any financially responsible person may propose to acquire the property through a competing application, also within 30 days. All pleadings should refer to Finance Docket No. 29827 and should be submitted, within 10 copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423. A copy should also be sent to Louis Rossi, Director, Rail Division, N.Y.S. Department of Transportation, 1220 Washington Avenue, NY 12232.

For further information contact Wayne A. Michel (202) 275–7657 or Louis E. Gitomer (202) 275–7245 at the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-16772 Filed 6-21-82; 8:45 am]

BILLING CODE 7035-01-M

[No. 38749]

UTF Carriers, Inc.—Petition for Relief From Tariff Requirements Under 49 U.S.C. 10761(b)

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments.

SUMMARY: In the **Federal Register** notice of June 7, 1982 (47 FR 24668), the date comments were due was 15 days from the date of **Federal Register** publication or June 22, 1982. At the request of the Federal Trade Commission, the due date has been postponed to June 28, 1982. This extension does not affect the provisional grant of the requested exemption nor the date the sought relief will become effective if no adverse comments are received. The effective date is July 7, 1982.

DATE: Comments are due June 28, 1982.

ADDRESS: Send original and 15 copies to: Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 257–7278.

Dated: June 16, 1982.

By the Commission, Reese H. Taylor, Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-16775 Filed 6-21-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL COMMUNICATION AGENCY

Book and Library Advisory Committee

The meeting of the Book and Library Advisory Committee originally scheduled for June 24 (47 FR 25429, June 11, 1982) has been postponed until Tueday, July 13. It will be held in conference room 600, 1750 Pennsylvania Avenue, NW., Washington, D.C. from 1:30 pm to 5:00 pm. The Committee will be briefed on Agency activities with primary focus on the book and library-programs at posts overseas.

Dated: June 18, 1982.

Robert R. Reilly,

Director, Office of Private Sector Programs.

[FR Doc. 82-16915 Filed 6-21-82; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

U.S. v. American Maize—Products Co., et al.

Pursuant to the Antitrust Procedures and Penalties Act 15 U.S.C. 16(a) and (b) the United States publishes below two comments it received from American Maize-Products Company on a proposed consent judgment in *U.S. v. American Maize-Products Company, et al.*, Civil

No. 81–1232 Civ.–J–M together with its response to such comments.

Joseph H. Widmar,

Director of Operations.

U.S. District Court, for the Middle District of Florida, Jacksonville Division

UNITED STATES OF AMERICA, Plaintiff, v. *American Maize-Products Company and Bayuk Cigars, Inc.*, Defendants

Civil No. 81–1232–Civ–J–M. Response of United States to Comments Relating to Proposed Final Judgment.

I. Background

On December 22, 1981, plaintiff filed a complaint under Section 7 of the Clayton Act, 15 U.S.C. 18, seeking to enjoin defendant American Maize-Products Company and its wholly-owned subsidiary, Jno. H. Swisher & Son, Inc., from acquiring the cigar business assets of defendant Bayuk Cigars Incorporated. The government alleged in its complaint that the acquisition of Bayuk's cigar business assets by American Maize would substantially lessen competition in the manufacture and sale of cigars.

On February 12, 1982, plaintiff filed with the Court a stipulation and proposed final judgment signed by all parties and a competitive impact statement. Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), the stipulation, the proposed final judgment, and the competitive impact statement were published in the Federal Register on February 26, 1982. Summaries of those documents were published in the Washington Post on February 21–27, 1982, and in The Florida Times-Union on March 25–31, 1982. The competitive impact statement and the newspaper notices invited members of the public to comment on the proposed final judgment, in accordance with 15 U.S.C. 16(c), (d).

The comment period prescribed by 15 U.S.C. 16(c) expired on May 24, 1982. The only comments received by the government during that period were submitted by defendent American Maize. By letter dated March 16, 1982 (Appendix A), American Maize sought to withdraw its consent to the proposed decree. Although the letter did not purport to be a comment on the decree pursuant to the Antitrust Procedures and Penalties Act, it did attack the terms of the settlement and the government's competitive impact statement. The government responded to American Maize's letter of March 16 on April 5, 1982, in a letter from Alan L. Marx, Acting Chief of the Antitrust Division's General Litigation Section (Appendix B). The letter stated that the attempted withdrawal of consent was, in our view, ineffective, and that the Department of Justice saw no reason to withdraw its own consent to the decree.

American Maize subsequently submitted a letter dated April 27, 1982, which was explicitly designated a comment on the proposed final judgment pursuant to the Antitrust Procedures and Penalties Act (Appendix C). It repeated many of the allegations made in the letter of March 16 and objected to entry of the proposed final judgment as contrary to the public interest.

The government's response to these criticisms of the proposed final judgment and competitive impact statement is contained in the letter of April 5, 1982, from Alan Marx to counsel for American Maize, and in the following supplemental response to American Maize's letter of April 27.

II. Response to Comment of American Maize

American Maize contends that entry of the proposed final judgment is not in the public interest for two reasons. First, it claims that the competitive impact statement inadequately explained the anticipated effects of the proposed judgment on competition and thus did not comply with the requirements of the Antitrust Procedures and Penalties Act. Second, it asserts that the United States "permitted" Bayuk to sell part of its assets according to the terms of the proposed judgment prior to its entry. This was said to have undermined the purpose of the Antitrust Procedures and Penalties Act and the Court's duties thereunder.

Section IV (A) of the proposed final judgment prohibits Bayuk from selling any trade name or manufacturing facility used in its cigar business to any of the four largest cigar manufacturers—Consolidated Cigar Company, American Maize, Culbro Corporation, and American Brands, Inc.—wirthout prior approval from the Department of Justice. However, the decree contains an exception for Bayuk's Garcia y Vega brand and related assets, which may be sold to "any cigar manufacturer other than Consolidated Cigar Company," the largest cigar manufacturer in the United States.

On March 1, 1982, following negotiations with both Culbro Corporation and American Maize, Bayuk entered into an agreement to sell its Garcia y Vega brand and related assets to Culbro. Pursuant to section IV (B) of the proposed decree, Bayuk submitted the purchase agreement to the Department of Justice for review. We did not object to the sale, and we believe it was consummated on March 15, 1982. Subsequently, on or about June 2, 1982, Bayuk announced that it had sold its Phillies brand and related assets to a subsidiary of Havatampa, Inc., a cigar manufacturer in Tampa, Florida.

A. Adequacy of the Competitive Impact Statement

American Maize's initial objection—that the competitive impact statement does not adequately explain the anticipated effect on competition of the sale of Garcia y Vega to Culbro, and thus does not satisfy the requirements of 15 U.S.C. 16(b)(3)—was addressed at length in the letter of April 5 from Alan Marx to Barbara Mentz. Several of the points made there bear repeating.

1. Procedural Nature of the Antitrust Procedures and Penalties Act. Section 2(b)(3) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)(3), states that the government must file a competitive impact statement containing "an explanation of the proposal for a consent judgment, including any unusual circumstances giving rise to such proposal or any provision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief." Like most other provisions of the Act, this is a purely procedural requirement. The government must set forth its explanation of the settlement, which it had done. The competitive impact statement filed in this case addresses all of the specified subject, including the last, in ample detail. That American Maize anticipates a different competitive impact or disapproves our lack of further investigation is irrelevant to the narrow issue of compliance with 15 U.S.C. 16(b)(3). The statute does not require that our views be in complete accord with those of other parties to the settlement.

2. Relevance to the Public Interest Standard. American Maize's real objection lies not with the competitive impact statement, but with the decree itself. With the advantage of hindsight, American Maize regrets that it consented to a decree which on its face allowed Culbro, among others, to acquire Garcia y Vega. Whether the decree, because it sanctions Culbro's acquisition of Garcia y Vega, is not in the public interest is an issue that ought to be addressed on its merits, not in the guise of an attack on the sufficiency of the competitive impact statement.

The public interest standard governing entry of the proposed decree is essentially the same as that embodied in the antitrust laws, with due allowance for the fact that a settlement inevitably entails some compromise. *See* S. Rep. No. 298, 93d Cong., 1st Sess. 3 (1974); H.R. Rep. No. 1463, 93d Cong., 2d Sess. 11–12 (1974), *reprinted in* 1974 U.S. Code Cong. & Ad. News 6535, 6542. Section 7 of the Clayton Act, under which this case was brought, prohibits mergers and acquisitions the effect of which may be substantially to lessen competition or tend to create a monopoly. The real question raised by American Maize, though not articulated as such, is whether the probable effect of the sale of Garica y Vega to Culbro, as permitted by the proposed decree, will be substantial lessening of competition in the cigar industry. We continue to believe that the correct answer is that it will not, for the reasons given in the competitive impact statement.

Acting within the limits imposed by the terms of the settlement, Bayuk has sold its Garcia y Yega brand and related assets to Culbro and its Phillies brand and related assets to a subsidiary of Havatampa, Inc. As discussed in part III(A) of the competitive impact statement, the increase in concentration resulting from the former, as measured by the Hirschman-Herfindahl index, is .0091 in units and .0093 in dollars. For the latter, the comparable figures are .0039 and .0018.* The pre-acquisition industry totals were .1464 in units and .1190 in dollars.

Although not inconsiderable, these increases are far smaller than the .0300 and .0140 increases threatened by the original transaction. Each is below the level at which the Department of Justice ordinarily would sue to block the acquisition, given the facts of this industry. Market segmentation and Culbro's relative weakness in the mid-priced

* These figures were given in the competitive impact statement but Havatampa was not identified by name.

segment where Garcia y Vega is strongest lessen somewhat the anticompetitive potential of that transaction. Compared with the low-priced segment of the market, medium-priced cigars are more subject to competition from small fringe firms and the possibility of increased imports.

Although Havatampa makes exclusively low-priced cigars, which compete directly with Phillies, its share of the market prior to the acquisition was to small to cause concern. It will take Bayuk's place as one of the major manufacturers, maintaining a market structure in which there are five, rather than four, significant factors.

3. *Arguments Advanced by American Maize.* None of the arguments advanced by American Maize on the competitive mertis of the settlement is persuasive. Much of its discussion is devoted to the proposition that Swisher would have been a desirable, procompetitive purchaser of Garcia y Vega. The premises underlying this line of argument are factually questionable and economically unsound.

For example, it is doubtful that "Swisher is unable to market cigars in a price range of $.15 and over" because of "marketing and distribution blocks." Comment at 2. American Maize, in an earlier memorandum, attributed this to Swisher's "reputation of being a maker of inexpensive cigars," as evidenced by the fact that Swisher "has twice tried to penetrate the higher priced cigar market and failed."* One of Swisher's efforts to sell medium-priced cigars was never designed to be a permanent entry into that market segment, and the other probably failed because of insufficient advertising and promotional support. In the latter instance the product was given a new brand name and not identified with Swisher, so the company's image with consumers was not a factor.

The assertion that Bayuk "had expressed its intention to liquidate its cigar operations" and therefore "if Swisher were to purchase the Garcia y Vega line, Swisher would preserve competition in the medium- priced market segments," Comment at 2, is equally questionable. Although Bayuk intended to sell its cigar business assets, there was never any question that the Garcia y Vega brand would survive intact. Any purchaser, not just Swisher, would have "preserved" it in that sense. However, if American Maize intends to convey a different thought—that it would have preserved Garica y Vega as an independent competitive entity—then it is wrong. Acquisition by Swisher would have extinguished rather than preserved its status as a separate competitor.

American Maize's argument concerning the geographically complementary distribution of Garcia y Vega and Swisher sales (Comment at 5) is meaningful only if there are regional or local geographic markets. There is no evidence to support such an assumption. The geographic market for cigars alleged by the government in this case (and stipulated to in the *Culbro* case cited by American Maize) is nationwide at the manufacturing level. All major manufacturers sell throughout the country. Freight costs are a minimal factor in the sale of cigars. Manufacturers used uniform prices nationwide and ship freight-free on minimum orders. Regional and local brand preferences vary, but these do not reduce the area within which buyers (mainly wholesale distributors) can practicably turn to alternatives sellers.

In addition to its dubious factual and theoretic underpinnings, the proposition that Swisher's acquisition of Garcia y Vega would have been procompetitive, and thus desirable has little bearing on the central issue—whether entry of the proposed decree would be in the public interest. Whether the sale of Garcia y Vega to Swisher would have entailed slightly lower risks of anticompetitive effects than its sale to Culbro is irrelevant. Section 7 of the Clayton Act proscribes only mergers and acquisitions the probable effect of which will be substantially to lessen competition. That is the standard by which we determined the acceptability of potential purchasers for Garcia y Vega, and we believe it is the standard that should guide the Court's public interest determination as well. If, by this test, Culbro is an acceptable purchaser, the competitive desirability of other potential purchasers is immaterial. Short of a probable substantial lessening of competition, we are not in a position to pick and choose among alternative buyers. Indeed, Swisher would not have fared well had we done so, inasmuch as nearly all other potential purchasers would have posed lesser risks of anticompetitive effects than Swisher.

The only other comment that goes directly to the question of the competitive impact of Culbro's acquisition of Garcia y Vega is the assertion that "[i]n 1977, the Government sought and obtained a divestiture of an acquisition by Culbro * * *, recognizing then the anticompetitive effects which it now chooses to ignore." Comment at 4. The facts in *United States v. Culbro Corp.*, 436 F. Supp. 746 (S.D.N.Y. 1977), decree at 1978–2 Trade Cases ¶62,274 (S.D.N.Y. 1978), differ from those present here in several important respects. That case had vertical as well as horizontal aspects, and the vertical relationship was the principal focus of the parties, the court, and the industry, including Swisher. The horizontal overlap represented only about three percent of the acquired business. The combined market shares of the two companies and the resulting increase in concentration were greater than the increase in concentration from Culbro's acquisition of Garcia y Vega. The products of both companies were concentrated in the low-priced segment of the market. There was nothing in that acquisition comparable to the restriction on the disposition of Phillies contained in this decree. In any event, the fact such a case was brought and divestiture obtained by consent of the parties sheds relatively little light on the issues currently before the Court.

B. Prior Consummation of the Sale of Garcia y Vega to Culbro

American Maize also alleges that the Department of Justice "knowingly disregarded the requirements and the very purpose" of the Antitrust Procedures and Penalties Act when it "allowed" Bayuk to sell Garcia y Vega to Culbro before entry of the decree. The argument assumes an authority on the part of the Department of Justice that does not exist. We have no unilateral injunctive power. Culbro was not a party to this lawsuit. Its purchase of Garcia y Vega was an entirely different transaction than the one that was the subject of this lawsuit.

We could conceivably have filed a new complaint in a different court and sought an injunction on the basis that the sale of Culbro violated the Clayton Act, but we had no reason to do so. We had considered the possibility of a sale to Culbro when we agreed to the proposed judgment and concluded that it would not violate the antitrust laws. We are aware of no changed circumstances that would have altered that decision. Indeed, we were not even aware of American Maize's objections to the decree and the competitive impact statement until after the transaction was consummated.

We would have petitioned the Court to prevent Bayuk from consummating the sale had we thought the sale violated the proposed final judgment, even though it had not yet been entered. Bayuk complied with the procedures set out in the decree, however, and we considered the transaction consistent with its terms.

In going ahead with the sale before the decree was entered, Bayuk acted at its own risk. If the decree is not entered, either the government or American Maize can challenge the sale as violative of section 7 of the Clayton Act. A third party can file such a challenge without regard to the decree. The Court's disapproval of the decree, however, would not affect, and could not in and of itself overturn, the sale to Culbro. That can only be done if the sale is declared unlawful, which, in turn, would require the filing of a new complaint and the initiation of a new action.

III. Conclusion

We see little merit to American Maize's criticism of the proposed final judgment, which we continue to believe is in the public interest. Even though Bayuk has now sold its cigar manufacturing assets in accordance with the proposed judgment, entry of the decree remains important because its restraints on the disposition of the Bayuk cigar business assets will continue to bind Bayuk's successors for five years.

Dated: June 4, 1982.

Respectfully submitted,

Steven C. Douse,
Richard W. Pierce,
Attorneys, United States Department of Justice, Antitrust Division, Washington, D.C. 20530, (202) 724–6485.

Appendix A

March 16, 1982.

Federal Express
Alan L. Marx, Esq.,
Acting Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530

* Memorandum of American Maize-Products Company and Bayuk Cigars Incorporated in Support of the Proposed Acquisition of Bayuk Cigars Incorporated at 25 (October 22, 1981).

Re: U.S. v. American Maize-Products Company and Bayuk Cigars Incorporated (Civil No. 81-1232-Civ-J-M) Withdrawal of Consent to Final Judgment

Dear Mr. Marx: This is to notify you that American Maize-Products Company hereby withdraws its consent to the entry of the proposed final judgement in *United States* v. *American Maizes-Products Company and Bayuk Cigars Incorporated*, Civil Action No. 81-1232-Civ-J-M, which consent was subject to the Department of Justice's compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16. (The Stipulation of Consent that was filed February 12, 1982). 15 U.S.C. 16(b) requires that the Department of Justice file a Competitive Impact Statement which, *inter alia*, must include: "an explanation of the proposal for a consent judgment, including an explanation of any unusual circumstances given rise to such proposal or any pro vision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief." 15 U.S.C. 16(b)(3). Subsequent to American Maize's execution of its Stipulation of Consent to the proposed final judgment, the Department of Justice filed its Competitive Impact Statement which fails in material part to comply with the requirements of 15 U.S.C. 16(b)(3). American Maize briefly sets forth herein its primarily reason as for withdrawal of its consent.

After many months of investigation by the Department of Justice including receipt of thousands of pages of documents from American Maize and its cigar manufacturing subsidiary Swisher through use of Civil Investigative Demands, it was apparent to the Department of Justice that if Swisher were allowed to acquire Garcia y Vega "the risk of anticompetitive effect is acceptably low in part because Garcia y Vega and Swisher compete primarily in different segments of the market. . . If Swisher is able to negotiate a purchase of only Garcia y Vega, it will thereby expand its production into the medium-priced segment of the market in which it is not now represented." Competitive Impact Statement 47 Fed. Reg. 8425 (February 26, 1982). In order words, the acquisition would enhance competition and Garcia y Vega would remain as a competitive force in the market place. Swisher agreed with this portion of the Department's analysis.

However, the Department of Justice, without explanation, without investigation, without issuing even one Civil Investigative Demand and without complying with the requirements of 15 U.S.C. 16(b)(3) is now gratuitously sanctioning the purchase of the Garcia y Vega line by General Cigar Co. ("Culbro") wholly failing to analyze the effect on competition or to explain the unusual circumstances allowing it to sanction an acquisition it had not scrutinized. The only attempted justification made by the Department of Justice is it unsupportable conclusory assertion that its analysis of the effect of a Swisher/Garcia y Vega acquisition is "applicable to Culbro". *Id.* This is patently not the case.

Culbro already manufactures cigars that are directly competition with Garcia y Vega. An acquisition would eliminate such direct competitive whereas an acquisition by Swisher which is not in the Garcia y Vega market segment would preserve Garcia y Vega as a competitive entity. Culbro has in recent years brought up its competitors and the Government forced a divestituture of one such acquisition in 1977 (*United States* v. *Culbro*, 77 Civ. 3149 (S.D.N.Y.) Final Judgment at IV) recognizing then the anticompetitive effects which it now chooses to ignore. On the other hand, Swisher has never before had a cigar acquisition and it has no cigars directly competitive with the Garcia y Vega.

Secondly, Culbro and Garcia y Vega market their cigars and have their greatest strength in the Northeastern United States. Culbro already dominates this geographic area through its vertical acquisition of Metropolitan Tobacco Company and its distribution divisions. The combined strength of these two operations will significant impede any new entrant in this market. On the other hand a Swisher/Garcia y Vega acquistion, would have given Swisher a competitive entry in the medium priced cigar range which it did not have and further give it marketing capability in an area of the United States that is complementary to Swisher's Southeastern market.

Finally, Culbro has in recent years engaged in both horizontal and vertical acquisition of Garcia y Vega will allow Culbro to eliminate yet one more competitor.

The Department of Justice has wholly failed to meet the obligations of 15 U.S.C. 16(b) and has attempted to justify a highly anticompetitive acquisition of Garcia y Vega by Culbro without regard to, and in contravention, of this indisputable fact.

This notification is not intended to serve in place of a hearing or the submission of evidential material to the Court at an appropriate time as provided in 15 U.S.C. 16(e) and (f).

Sincerely,

Hall, McNicol, Hamilton, Clark & Murray,

By: Barbara A. Mentz,

Attorneys for American Maize-Products Company.

Appendix B

April 5, 1982.

Barbara Mentz, Esquire,
Hall, McNicol, Hamilton, Clark & Murray,
220 East Forty-Second Street, New York, New York 10017

Re: United States v. American Maize-Products Company and Bayuk Cigars, Inc.

Dear Ms. Mentz: This is in response to your letter dated March 16, 1982. The letter asserts that your client's consent to the proposed final judgment in *United States v. American Maize-Products Company*, Civil Action No. 81-1232—Civ. J-M (M.D. Fla), "was subject to the Department of Justice's compliance with the requirements of the Antitrust Procedures and Penalties Act," and that the competitive impact statement filed by the Department of Justice "fails in material part to comply with the requirements of 15 U.S.C. [§] 16(b)(3)." As a consequence, American Maize contends that it may now withdraw its consent to the proposed final judgment, which the letter purports to do. We believe your criticisms of the competitive impact statement are unwarranted and your client's attempt to withdraw its consent to the proposed final judgment ineffective.

Your real quarrel, it seems, is not so much with the after-the-fact explanation of the decree in the competitive impact statement as it is with part IV(A) of the decree itself, which states that "Bayuk shall be permitted to sell the Garcia y Vega brand and any manufacturing facilities and assets necessary to produce that brand to any cigar manufacturer other than Consolidated Cigar Company." There is no way the competitive impact statement could have been written to satisfy your objections under the decree as it is presently drafted. Yet neither the decree nor the facts and circumstances on which you rely have changed since American Maize signed the stipulation consenting to entry of the decree. You were aware at the time that the decree allowed any cigar manufacturer other Consolidated to buy Garcia y Vega, but you did not object. The arguments you now make could have been advanced before the stipulation was signed, but they were not. Only after Culbro outbid American Maize and entered into a purchase agreement with Bayuk did you discover that this was an egregiously anticompetitive result. Although I can conceive of situations in which drastically changed circumstances might make it inequitable to hold a defendant to its prior consent, this is clearly not such a case.

You contend that your client's consent was conditioned on the government's compliance with the Antitrust Procedures and Penalties Act. Nothing in the Act suggests that your adherence to the judgment is conditional or that it may be withdrawn because you consider the competitive impact statement deficient. The stipulation for entry of the proposed final judgment, signed by your client, states explicitly that the plaintiff may withdraw its consent "at any time before entry of the proposed Final Judgment by serving notice thereof on Defendants and filing that notice with the Court." There is no comparable provision for withdrawal by a defendant.

The stipulation authorizes entry of the proposed final judgment "at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act." This confers no rights and imposes no obligations beyond those in the Act itself. If the competitive impact statement does not satisfy the requirements of the Act, the court may decline to enter the decree until the deficiency is corrected. Neither in law nor in logic would such a procedural lapse justify your client's attempt unilaterally to disavow its freely-given consent.

We also see no merit in your assertion that the competitive impact statement filed in this case does not comply with 15 U.S.C. § 16(b)(3). According to section 16(b)(3), the competitive impact statement must contain "an explanation of the proposal for a consent judgment, including any unusual circumstances giving rise to such proposal or any provision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief." Parts I, II, and III of the competitive impact statement

discuss these subjects at length. Your letter is not entirely clear on the point, but it implies that this explanation does not satisfy section 16(b)(3) because: (1) the Department of Justice did not conduct a separate investigation of Culbro; (2) it failed to analyze the effect on competition of a sale to Culbro; and (3) it reached what you now view as the patently incorrect and unsupportable conclusion that a sale to Culbro would not be unduly anticompetitive.

There is no support for your assertion that we were obligated to issue civil investigative demands and conduct a lengthy, full-scale investigation of Culbro (and, presumably, of all other potential purchasers) before permitting it to buy Garcia y Vega. I appreciate that your client, having borne the burdens of an investigation and litigation, resents losing Garcia y Vega to Culbro, which suffered neither. Our role, however, is not to inflict equal investigative costs on all potential purchasers. Our purpose in conducting investigations is to learn enough to make intelligent enforcement decisions. The extensive information about the cigar industry and the companies in it gathered during our investigation of your client's attempted acquisition of Bayuk, in addition to our previous experience with the cigar industry, was more than adequate to that purpose. Further investigation would have been duplicative and wasteful.

Your assertion that the competitive impact statement fails to analyze or explain the effect on competition of allowing Culbro to buy Garcia y Vega is simply incorrect. The first half of part III A considered the increases in concentration that would result from the sale of Garcia y Vega to Swisher, Culbro, or American, as well as from the sale of Phillies to the largest companies permitted under the decree. The decree's preservation of Phillies as a competitive entity, discussed in part III B, is the most important reason for believing that the sale of Garcia y Vega to one of the major manufacturers, including Culbro, will not substantially impair competition in the cigar industry. Because the number of significant competitors will remain the same, the increase in concentration caused by selling Garcia y Vega to Culbro or Swisher—the reasoning is the same for both—is less worrisome than would be the case if Garcia y Vega were an independent company. The discussion of alternatives to the decree in part III C applies equally in the case of a sale to Culbro.

The latter portion of III A, concerning market segmentation, focuses on Swisher, but not to the exclusion of Culbro. The last paragraph points out that the same considerations apply to Culbro, inasmuch as its greatest strength is in the low-priced and premium segments of the market, but to a lesser degree, as Culbro does have medium-priced brands. Culbro's sales of cigars retailing for between seventeen cents and thirty-five cents each account for less than four percent of its total cigar sales. Its sales volume in this price range is considerably smaller than that of Garcia y Vega. There is thus more direct overlap than was true with Swisher, especially at the margins, but little enough that some allowance can be made for it. It is, as the competitive impact statement points out, a matter of degree.

The emphasis your letter places on this part of the competitive impact statement suggests that you have misunderstood its significance. The increase in concentration resulting from the disposition of the Bayuk assets was the starting point for our analysis and its single most important element. The preservation of Phillies was the most important factor lessening the impact of the potential increase in concentration under the decree. Market segmentation was another. It was not the only basis for our decision, or even the most important. It certainly did not lead us to conclude, as your letter represents, that Swisher's acquisition of Garcia y Vega would "enhance competition" or that if acquired by Swisher, Garcia y Vega "would remain as a competitive force in the marketplace." An acquisition by either Culbro or Swisher entails competitive risks, of varying dimensions. Given the nature of the market and the companies involved, and in light of other provisions of the decree and the unsatisfactory alternatives, we concluded that the risks were acceptably small. Our analysis of the risks involved included those raised by a sale of Culbro, and we believe this is adequately set out in the competitive impact statement.

You are free to disagree with our conclusions; however, such substantive criticisms are irrelevant to the procedural requirements of section 16(b)(3). Moreoever, your argument on the merits is not persuasive, and we see no reason to withdraw our consent to the proposed final judgment.

That the Department of Justice previously challenged an acquisition by Culbro, while "Swisher has never before had a cigar acquisition," are facts of only limited relevance. Swisher's comparative desirability as a purchaser of Garcia y Vega is irrelevant to the issue of whether a sale to Culbro would be substantially anticompetitive. Although Culbro has acquired wholesale distributors, your assertion that it "has in recent years bought up its competitors" greatly overstates the case. Culbro acquired Gradiaz Annis in 1963 and in 1977 obtained an option to but part of Havatampa, now Eli Witt. That company's cigar manufacturing operations were divested under the Havatampa name in 1978. We are aware of no other acquisition of cigar manufacturers by Culbro.

Because the market for cigars is national in scope, we do not attach great significance to the strength of Culbro and Garcia y Vega in the Northeast. Culbro's control over wholesale distribution in certain areas presents competitive problems distinct from those involved here, and the Garcia y Vega acqusition is not likely to affect them. There is no reason to believe that it will afford Culbro any greater opportunities to impede the distribution of competitors' cigars in the Northeast, or elsewhere, than existed prior to the acquisition.

Neither the Department of Justice nor, to the best of our knowledge, Bayuk, which are the only parties to the settlement whose actions are restrained by the decree, wishes to abrogate the agreement or sees any reason to do so. American Maize remains free to bring its own action against the Culbro acquisition.

The last paragraph of your letter suggests that you intend to ask the court for a hearing and present evidence opposing entry of the decree. Please let us know as early as possible what further action you intend to take.

Sincerely yours,

Alan L. Marx,

Acting Chief, General Litigation Section Antitrust Division.

cc: Honorable Howell W. Melton
United States District Judge
United States Courthouse
311 W. Monroe Street
Post Office Box 52957
Jacksonville, Florida 32201-2957

Donald Turner, Esquire
Wilmer, Culter & Pickering
1666 K Street, N.W.
Washington, D.C. 20006

Appendix C

April 27, 1982.

Alan L. Marx, Esq.,
Acting Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530

Re: United States v. American Maize-Products Company and Bayuk Cigars Incorporated (Civil No. 81-1232-Civ-J-M)

Dear Mr. Marx: This letter constitutes American Maize-Products Company's written comments to the proposed final judgment in the above-entitled action pursuant to 15 U.S.C. § 16(b) of the Antitrust Procedures and Penalties Act ("APPA"). It is American Maize's position that the proposed final judgment should not be entered as it is not in the public interest. The reasons are as follows: First, the Department of Justice has failed to comply with the requirements of the APPA. Second, the Department of Justice has knowingly undermined the very purpose of the APPA as expressed by Congress. American Maize has withdrawn its consent to the proposed final judgment and is seeking discovery with respect to these issues on the ground, *inter alia*, that such consent was obtained by deception.

I. Introduction

As you know, in July 1981, Swisher's parent, American Maize, announced that it had entered negotiations to purchase the cigar manufacturing assets of Bayuk Cigars Inc. Bayuk's assets included the Phillies brand of cigars, which sell for approximately $.15 and under each, and the Garcia y Vega brand, which cigars sell in the medium-priced segment of the market, approximately $.15 to $.75. On August 14, 1981, the Department of Justice issued Civil Investigative Demands directed to American Maize and Bayuk which sought detailed information concerning the business and operations of American Maize, Swisher, and Bayuk for the purpose of evaluating the effect of the acquisition upon competition.

In response, American Maize produced literally thousands of pages of documents. In addition, American Maize and Bayuk jointly submitted detailed memoranda, including

economic studies, which analyzed the impact of the proposed acquisition. In particular, American Maize and Bayuk pointed out that the cigar industry had declined drastically over the last decade from sales of approximately 8 billion units in 1970 to 4 billion units in 1980, and that Swisher manufactured and marketed only cigars in the $.15 and under price price range, in a geographical area which was complementary rather than competitive to that of Bayuk. Most importantly, the acquisition would enhance competition in that Swisher would become an effective nationwide competitor in a *full line* of products, enabling it to compete against the nation's largest cigar manufacturing companies, Consolidated Cigar Co. and General Cigar Co. (a subsidiary of Culbro Corporation). One of the main thrusts of Swisher's position is that Swisher is unable to market cigars in a price range of $.15 and over, due not to technological difficulties but rather to marketing and distribution blocks. The acquisition of the Carcia y Vega line would permit Swisher *to enter* the medium-priced segment of the market. Bayuk had expressed its intention to liquidate its cigar operations. Therefore, if Swisher were to purchase the Garcia y Vega line, Swisher would preserve competition in the medium-priced market segment. Notwithstanding these submissions, the Department filed the above entitled action to enjoin American Maize from acquiring the cigar manufacturing assets of Bayuk.

On January 15, 1982, counsel for American Maize was first advised that Bayuk was separately engaging in settlement discussions with the Department. The settlement that these two parties were proposing was structured in such a way that it did not require any participation of American Maize as no injunction was to be issued against American Maize. The initial notification of such settlement discussions to American Maize consisted of a communication which indicated that Bayuk was no longer interested in challenging the Department concerning its right to sell all of its cigar business assets to American Maize but that, under the terms of settlement worked out with the Department, it would continue to negotiate with American Maize concerning the sale of its Garcia y Vega brand, disposing of its Phillies brand in some other fashion but not to any of the four largest companies in the industry.

On January 21, 1982, American Maize was forwarded a proposed stipulation which provided for an entry of a final judgment in this action upon completion of certain terms and conditions. Specifically, the stipulation recites that:

The parties consent that a Final Judgement in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

The stipulation was specifically conditioned upon the Department's compliance with the requirements of the APPA.

On January 22, the stipulation was signed on behalf of American Maize subject to such compliance. As more fully set forth below, such compliance[1] was not forthcoming and American Maize has learned that the Department has ignored the very purpose of the APPA.

II. Entry of the Proposed Consent Judgement Fails To Comply With the APPA

Compliance with the APPA requires, *inter alia*, that the Department of Justice file a competition impact statement which, *inter alia*, must include "an explanation of the proposal for a consent judgement, including and explanation of any unusual circumstances giving rise to such proposal or any provision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief." 15 U.S.C. § 16(b)(3). Subseqent to American Maize's execution of its Stipulation of Consent to the proposed final judgement, the Department of Justice filed its Competitive Impact Statement, which fails in material part to comply with the requirements of 15 U.S.C. § 16(b)(3).

The Department's detailed investigation and analysis of Swisher and Bayuk allowed it to conclude in the Competitive Impact Statement that if Swisher were permitted to acquire Garcia y Vega, "the risk of anticompetitive effect is acceptably low, in part because Garcia y Vega and Swisher compete primarily in different segments of the market. . . . It [sic] Swisher is able to negotiate a purchase of only Garcia y Vega, it will thereby expand its production into the medium-priced segment of the market in which it is not now represented." Competitive Impact Statement, 47 FR 8423, 8425 (February 26, 1982). In other words, the acquisition would enhance competition and Garica y Vega would remain as a competitive force in the market place. Swisher agreed with this portion of the Department's analysis.

However, the Department of Justice, without explanation, without investigation, without issuing even one civil investigative demand and without complying with the requirements of 15 U.S.C. § 16(b)(3) requiring that the competitive effects of a proposed judgment be analyzed, gratuitously sanctioned the purchase of the Garcia y Vega line by General Cigar Co. (referred to as Culbro in the Statement), wholly failing to analyze the effect on competition or to explain the unusual circumstances allowing it affirmatively to sanction and acquisition that it had not scrutinized. The only attempted justification made by the Department of Justice is its unsupportable conclusory assertion that its analysis of the effect of a Swisher/Garcia y Vega acquisition is "applicable to Culbro." *Id.* This is patently not the case, and it was clear to us that the Department has simply fabricated parts of the statement to permit direct competitors of Bayuk's Garcia y Vega brand to acquire that brand using as justification the analysis of a Swisher/Garcia y Vega acquisition, which is totally inappropriate.

Culbro already manufactures cigars that are directly competitive with Garcia y Vega. An acquisition would eliminate such direct competition whereas an acquisition by Swisher, which is not in the Garcia y Vega market segment, would enhance competition and maintain Garcia y Vega as a competitive entity. In 1977, the Government sought and obtained a divestiture of an acquisition by Culbro (*United States* v. *Culbro*, 77 Civ. 3049 (S.D.N.Y.) Final Judgement at IV), recognizing then the anticompetitive effects which it now chooses to ignore. On the other hand, Swisher had never before had a cigar acquisition and it has no cigar directly competitive with Garcia y Vega.

Secondly, Culbro and Garcia y Vega market their cigars and have their greatest strength in the Northeastern United States. Culbro already dominates this geographic area through its vertical acquisition of Metropolitan Tobacco Company and its distribution divisions. The combined strength of these two operations will significantly impede any new entrant in this market. On the other hand, a Swisher/Garcia y Vega acquisition would have given Swisher a competitive entry in the medium-priced cigar market which it did not have and further give it marketing capability in an area of the United States that is complementary to Swisher's, which is Midwest, Southwest and Southeast.

In *United States* v. *National Broadcasting Co., Inc.*, 449 F.Supp. 1127 (C.D. Cal. 1978), the court, in approving a proposed consent judgment in a civil antitrust action, stated, "in evaluating a proposed consent decree, one highly significant factor is the degree to which the proposed decree advances and is consistent with the government's original prayer for relief." *Id.* at 1144. It thereafter analyzed the merits of the case and concluded that the "relief provided by the judgment is consistent with the government's general theory of liability as manifested in its complaint." *Id. at 1145. As a result, the court held "that the consent judgment, on balance, advances and is in 'the public interest.'" Id.* Thus, the court reviewed closely and substantively the settlement in question. In the present case, the Competitive Impact Statement cannot withstand inquiry. It is inadequate because it failed to take into account the anticipated effects on competition that would arise if the decree became the foundation for allowing Culbro Corporation to buy Garcia y Vega. Accordingly, it should not be entered for this reason alone.

More important, however, is the fact that during the sixty day period in which the proposed consent judgment was supposed to be subject to public comment and scrutiny by the Court, the Department of Justice permitted the acquisition of Garcia y Vega by General Cigar Co. In fact, it permitted the aquisition in March just days after publication in the **Federal Register** of the Competitive Impact Statement. This directly

[1] By letter dated March 16, 1982, American Maize withdrew its consent to the stipulation because of the Department's non-compliance. That letter is incorporated herein as if fully set forth.

contravenes the intent of Congress in enacting the APPA.

III. The Department of Justice's Actions in This Matter Have Totally Contravened Congress' Intention in Enacting the APPA

Congress passed the APPA in response to perceived abuses by the Department of Justice in settling antitrust cases. It was observed that the settlement process was cloaked in secrecy and was subject to political abuse, and that the views of interested third parties were seldom considered. *See* H.R. Rep. No. 1463, 93d Cong., 2d Sess. *reprinted in* 1974 U.S. Code Cong. & Ad. News 6535–40; 120 Cong. Rec. 38585 (1974) (remarks of Sen. Tunney); 120 Cong. Rec. 36341–42 (1974) (remarks of Reps. McClory and Seiberling); 119 Cong. Rec. 24598 (1974) (remarks of Sen. Tunney). The House Report on the APPA states that Congress' intent in passing the APPA was to curb the "[v]arious abuses in consent decree procedures by the Antitrust Division and by district courts" by substituting "sunlight" for "twilight". H.R. Rep. No. 1463, 93d Cong., 2d Sess. *reprinted in* 1974 U.S. Code Cong. & Ad. News 6537. Further, Congress clearly intended that a court analyze whether the proposed consent judgment was in the public interest and not just to act as a rubber stamp. *Id.* at 6538.

To achieve those objectives and open up the consent judgment process to public scrutiny, the APPA establishes several steps that the Department of Justice must take prior to entering into a final consent judgment. First, the APPA ensures that the public has fair notice by requiring that the terms of the proposed judgment and the competitive impact statement be published in the **Federal Register** at least sixty days prior to the effective date of the judgment. 15 U.S.C. 16(b). This is to *ensure* that the public is aware of the proposed consent judgment and has the opportunity for meaningful comment. During the sixty day comment period, the Department is required to receive and consider comments relating to the proposed judgment. 15 U.S.C. § 16(d). At the expiration of the sixty days, the Department is required to file with the court and publish in the **Federal Register** its responses to the comments. *Id.* After the sixty day period, the court is required to make a determination whether entry of the proposed judgment is in the public interest. 15 U.S.C. §§ 16(e) and (f).

In this action, however, there can be no question that the Department knowingly disregarded the requirements and the very purpose of the APPA. Just days after publication in the **Federal Register**, the Department allowed Bayuk to sell its Garcia y Vega assets to General Cigar Co.

The Department did not even bother to tell the Court or American Maize that the transaction was going to happen even though the Staff received ten days advance notice. This practice does violence to, and flies in the face of, the clear meaning and intent of the APPA that the public is entitled to comment and that the Court is not merely to serve as a "rubber stamp" for the Department of Justice. The Department of Justice unilaterally decided that it would not even give the Court the opportunity to "rubber stamp" the proposed final judgment.

It is not in the public interest for the Department to be allowed to submit an incorrect Competitive Impact Statement and to ignore Congressional intent with respect to the APPA. For the foregoing reasons the proposed final judgment should not be entered.

Hall, McNicol, Hamilton, Clark & Murray,

Attorneys for American Maize-Products Company.

[FR Doc. 82-16835 Filed 6-21-82; 8:45 am]

BILLING CODE 4410-01-M

Attorney General

Proposed Consent Decree in Action To Enforce the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR. 19029, notice is hereby given that on June 1, 1982, a proposed consent decree in *United States* v. *Louisville and Nashville Railroad Company*, No. 82–0558–C–B, was lodged with the United States District Court for the Southern District of Alabama, Southern Division. The proposed decree provides for settlement of a suit under the Clean Water Act concerning the company's twelve facilities in Alabama, Tennessee and Kentucky. The proposed decree requires that company pay a civil penalty for alleged violations of Section 301 and conform to waste water treatment facility completion schedules and effluent standards.

The Department of Justice will receive, for a period of thirty (30) days from the date of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Louisville and Nashville Railroad Company*, D.J. Ref. No. 90–5–1–1–1554/90–5–1–1–1154.

A proposed consent decree may be examined at the office of the United States Attorney, Southern District of Alabama, 311 Federal Building, Mobile, Alabama 36602; at the Region IV Office of the United States Environmental Protection Agency, Office of Regional Counsel, Second Floor, 345 Courtland Street, N.E., Atlanta, Georgia 30365; and the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting the proposed consent decree please send a check or money order in the amount of $1.10 (10 cents per page reproduction charge) made payable to the Treasurer of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-16834 Filed 6-21-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-12,562]

Baros Coat and Suit Corp.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 6, 1981 in response to a petition received on March 27, 1981 which was filed on behalf of workers at Baros Coat and Suit Corporation, Brooklyn, New York. Workers produced ladies' suits, coats and jackets.

On December 31, 1979 the Department issued a notice of determination which certified workers at Baros Coat and Suit Corporation, Brooklyn, New York, as eligible to apply for adjustment assistance benefits (TA–W–6268). That certification expired on December 31, 1981, two years after the date it was issued.

Baros Coat and Suit Corporation permanently closed in August 1981. All workers were laid off at that time. These workers were covered by an active certification (TA–W–6268). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 11th day of June 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-16747 Filed 6-21-82; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period June 7, 1982–June 11, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-12,453; Sondra Coat Co., Hoboken, NJ
TA-W-12,257; Fleetline Industries, Inc., Garland, NC
TA-W-12,452; Liberty Fashions, Inc., Hoboken, NJ
TA-W-12,509; Gallant International, Inc., New York, NY
TA-W-12,570; Deltrol Controls, Milwaukee, WI

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-12,896; General Motors Corp., Central Office, Detroit, MI
TA-W-12,897; General Motors Corp., Central Office, Warren, MI
TA-W-12,898; General Motors Corp., Central Office, New York, NY
TA-W-12,899; General Motors Corp., Central Office, Dayton, OH
TA-W-12,900; General Motors Corp., GM Proving Ground, Milford, MI
TA-W-12,901; General Motors Corp., Central Office, Flint, MI
TA-W-12,902; General Motors Corp., Central Office, Chicago, IL
TA-W-12,903; General Motors Corp., Central Office, St. Louis, MO
TA-W-12,904; General Motors Corp., Central Office, Los Angles, CA
TA-W-12,905; General Motors Corp., Central Office, San Francisco, CA
TA-W-12,906; General Motors Corp., Central Office, Washington, DC
TA-W-12,907; General Motors Corp., Central Office, Indianapolis, IN
TA-W-12,908; General Motors Corp., Central Office, Boston, MA
TA-W-12,909; General Motors Corp., Central Office, Kansas City, MO
TA-W-12,910; General Motors Corp., Central Office, Cincinnati, OH
TA-W-12,911; General Motors Corp., Central Office, Honolulu, HI
TA-W-13,068; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Des Moines, IA
TA-W-13,069; General Motors Corp., Chevrolet Motor Div., Zone & Regional Offices, Rockville, MD
TA-W-13,070; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Overland Park, KS
TA-W-13,071; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Wormleysburg, PA
TA-W-13,220; General Motors Corp., Chevrolet Motor Div., Central Office, Warren, MI
TA-W-13,221; General Motors Corp., Chevrolet Motor Div., Zone & Regional Office, Atlanta, GA
TA-W-13,222; General Motors Corp., Chevrolet Motor Div., Zone & Regional Office, Tarrytown, NY
TA-W-13,223; General Motors Corp., Chevrolet Motor Div., Zone & Regional Office, Cincinnati, OH
TA-W-13,224; General Motors Corp., Chevrolet Motor Div., Zone Sales & Regional Office, Irving, TX
TA-W-13,225; General Motors Corp., Chevrolet Motor Div., Zone Sales & Regional Office, Fremont, CA
TA-W-13,226; General Motors Corp., Chevrolet Motor Div., Zone Sales & Regional Office, Oakbrook, IL
TA-W-13,227; General Motors Corp., Chevrolet Motor Div., Zone Sales Sales Office, Homewood, AL
TA-W-13,228; General Motors Corp., Chevrolet Motor Div., Zone Sales Sales Office, Tempe, AZ
TA-W-13,229; General Motors Corp., Chevrolet Motor Div., Zone Sales Sales Office, Santa Monica, CA
TA-W-13,230; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, San Diego, CA
TA-W-13,231; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Denver, CO
TA-W-13,232; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Indianapolis, IN
TA-W-13,233; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Overland Park, KS
TA-W-13,234; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Louisville, KY
TA-W-13,235; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Metairie, LA
TA-W-13,236; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Westwood, MA
TA-W-13,237; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Southfield, MI
TA-W-13,238; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Grand Blanc, MI
TA-W-13,239; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Edina, MN
TA-W-13,240; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Maryland Heights, MO
TA-W-13,241; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Omaha, NE
TA-W-13,242; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Parsippany, NJ
TA-W-13,243; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Bethpage, LI, NY
TA-W-13,244; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Syracuse, NY
TA-W-13,245; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Charlotte, NC
TA-W-13,246; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Fargo, ND
TA-W-13,247; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Parma, OH
TA-W-13,248; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Wayne, PA
TA-W-13,249; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Memphis, TN
TA-W-13,250; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Houston, TX
TA-W-13,251; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Salt Lake City, UT
TA-W-13,252; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Charleston, WV
TA-W-13,253; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Brookfield, WI
TA-W-13,254; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Jacksonville, FL
TA-W-13,255; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Sanston, VA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-12,389; Krown Manufacturing Co., Inc., Charlotte, MI

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of travel and camping trailers are negligble.

TA–W–12,280; Tel-Aviv, Inc., Hoboken, NJ

The investigation revealed that criterion (3) has not been met. Imports did not contribute importantly to workers separations at the subject firm.

Affirmative Determinations

TA–W–12,721; F & D Ladies' Coats & Suits, Inc., Brookyn, NY

A certification was issued in response to a petition received on May 27, 1981 covering all workers separated on or after May 20, 1980 and before March 31, 1982.

TA–W–12,640; Imperial Optical Manufacturing Co., Hialeah, FL

A certification was issued in response to a petition received on April 20, 1981 covering all workers separated on or after June 1, 1980.

TA–W–12,336; Apex Handbags, Div. of Olla Industries, Inc., Weehawken, NJ

A certification was issued in response to a petition received on February 24, 1981 covering all workers separated on or after February 5, 1981.

I hereby certify that the aforementioned determinations were issued during the period June 7, 1982—June 11, 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: June 15, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82–16750 Filed 6–21–82; 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 July 2, 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 July 2, 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 14th day of June 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
Bon-Art Industries, Inc. (workers)	Fair Lawn, NJ	6/2/82	5/26/82	TA-W-13,522	Plaster products.
Cameron Manufacturing Co. (IUE)	Emporium, PA	5/28/82	5/25/82	TA-W-13,523	Pliers, wrenches, ratchet handles, forgings, custom.
Consolidated Coal Co., Pageton Prep. Plant (workers).	Pageton, W. VA	6/2/82	5/26/82	TA-W-13,524	Coal, preparation.
Clark Equipment Co. (workers)	Georgetown KY	5/28/82	5/24/82	TA-W-13,525	Trucks—forklift, electric.
Davis Hamakua Sugar Co. (ILWU)	Pauuilo HI	6/1/82	5/24/82	TA-W-13,526	Sugar, raw.
Del Monte Corp., Molokai (ILWU)	Kualapuu, HI	6/1/82	5/24/82	TA-W-13,527	Pineapple—grow.
Del Monte Corp., Cannery (ILWU)	Honolulu, HI	6/1/82	5/24/82	TA-W-13,528	Pineapple—canned, juiced.
Dole Company (Can Plant) (ILWU)	Honolulu, HI	6/1/82	5/24/82	TA-W-13,529	Cans—fruit, juice.
Dole Company (Plantation) (ILWU)	Lanai City, HI	6/1/82	5/24/82	TA-W-13,530	Pineapple—grow.
Dole Company (carnnery (ILWU)	Honolulu, HI	6/1/82	5/24/82	TA-W-13,531	Pineapple—can & juice.
Hadron (workers)	Lake Orion, MI	6/2/82	6/1/82	TA-W-13,532	Machines—transferline.
Hanna Novelty Co., Inc. (workers)	Monticello, IN	6/8/82	5/28/82	TA-W-13,533	Racks—spice.
Hawaiian Commercial & Sugar Company (ILWU)	Puunnene, Maui	6/1/82	5/24/82	TA-W-13,534	Sugar—raw.
Hilo Coast Processing Co. (ILWU)	Pepeekeo, HI	6/1/82	5/25/82	TA-W-13,535	Sugar—raw.
Hilo Iron Works, Hilo Div. (ILWU)	Hilo, HI	4/30/82	4/26/82	TA-W-13,536	Equipment—fabrication.
Inductive Components, Inc. (IBEW)	Hauppauge, NY	6/1/82	5/18/82	TA-W-13,537	Components and transformers electrical.
Jones & Laughlin Corp., Pittsburgh Works (USWA)	Pittsburgh, Pa. (2 plants)	5/25/82	5/11/82	TA-W-13,538	Steel—carbon & products.
Ka'u Sugar Co., Inc. (ILWU)	Phahala, HI	6/1/82	5/24/82	TA-W-13,539	Sugar—raw.
Kekaha Sugar Co., Ltd. (ILWU)	Kekaha, HI	6/1/82	5/24/82	TA-W-13,540	Sugar—raw.
(The) Lihue Plantation Co., Ltd (ILWU)	Lihue HI	6/1/82	5/24/82	TA-W-13,541	Sugar—raw.
Mauna Kea Sugar Co., Inc. (ILWU)	Papaikou HI	6/1/82	5/24/82	TA-W-13,542	Sugar—raw.
McBryde Sugar Co., Ltd. (ILWU)	Eleele, HI	6/1/82	5/24/82	TA-W-13,543	Sugar—raw.
National Steel Corp., Weirton Steel Div. (Independent Steel workers Union).	Weirton W. VA	6/1/82	5/24/82	TA-W-13,544	Tin plant, galvanized sheet hot and cold rolled carbon steel sheet and strip.
Oahu Sugar Co., Ltd. (ILWU)	Waipahu, HI	6/1/82	5/24/82	TA-W-13,545	Sugar—raw.
Olokele Sugar Co., Ltd. (ILWU)	Kaumakani, HI	6/1/82	5/24/82	TA-W-13,546	Sugar—raw.
Pioneer Mill Co., Ltd. (ILWU)	Lahaina, HI	6/1/82	5/24/82	TA-W-13,547	Sugar—raw.
Pirelli Cable Corp. (workers)	Allendale, NJ	5/28/82	5/24/82	TA-W-13,548	Wire—cable, hook-up tubing.
United Technologies, Essex Group, Inc. (workers)	Berrien Springs, MI	5/28/82	5/25/82	TA-W-13,549	Circuits—cut wire & cable.
Wailuku Sugar Co. (ILWU)	Wailuku, HI	6/1/82	5/24/82	TA-W-13,550	Sugar—raw.
Waialua Sugar Co., Inc. (ILWU)	Waialua, HI	6/1/82	5/24/82	TA-W-13,551	Sugar—raw.

[FR Doc. 82–16749 Filed 6–21–82; 8:45 am]

BILLING CODE 4510–30–M

[TA-W-12,828]

Microdot Manufacturing, Inc.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 13, 1981 in response to a peition received on July 6, 1981 which was filed on behalf of workers at Microdot Manufacturing, Incorporated, Everlock-Tennessee, Portland, Tennessee.

An active certification coverning the petitioning group of workers remains in effect (TA–W–12,697). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 11th day of June 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-16748 Filed 6-21-82: 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

North Carolina Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On February 1, 1973, notice was published in the **Federal Register** (38 FR 3041) of the approval of the North Carolina plan and the adoption of Subpart I to Part 1952 containing the decision.

The North Carolina Plan provides for the adoption of Federal standards as State standards by reference. Section 1953.20 of 29 CFR provides that "where an alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State Plan shall be required." In response to Federal standard changes, the State has submitted by letter, dated February 5, 1982 from J. A. Wyatt, Acting Director, Occupational Safety and Health Division, North Carolina Department of Labor, to William W. Gordon, Regional Administrator, and incorporated as a part of the State plan, State standards comparable to the following Federal standards: 29 CFR 1910.301, 29 CFR 1910.302, 29 CFR 1910.303, 29 CFR 1910.304, 29 CFR 1910.305, 29 CFR 1910.306, 29 CFR 1910.307, 29 CFR 1910.308, 29 CFR 1910.399 and Appendix A, of Subpart S, dated January 16, 1982; Corrections 29 CFR Part 1910, Fire Protection, Means of Egress, Harzardous Materials, dated May 1, 1981; 29 CFR 1910.19 Special Provisions and 29 CFR 1910.1000 Benzene, amended, dated June 19, 1981; 29 CFR 1910.1028 Benzene, deleted, dated June 19, 1981; 29 CFR 1910.1046 Cotton Dust, deleted, dated June 19, 1981; 29 CFR 1928.113 Cotton Dust in Cotton Gins, deleted, dated June 19, 1981; 29 CFR 1910.95 Noise, Amended and Stays, dated August 21, 1981; 29 CFR 1910.95 Noise, Corrections, dated September 11, 1981; 29 CFR 1910.1025 Lead, amended, dated December 11, 1981; 29 CFR 1910.1043 Cotton Dust, Appendix A, amended, dated October 10, 1980.

These standards were promulgated by filing with the North Carolina Attorney General on May 8, 1981; June 26, 1981; July 13, 1981; December 1, 1981; February 1, 1982 respectively, pursuant to the North Carolina Occupational Safety and Health Act of 1973 (Chapter 295, General Statutes).

2. *Decision.* Having reviewed the state submission in comparison with Federal standards, it has been determined that the state standards are identical to the Federal standards and are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, North Carolina Department of Labor, 4 West Edenton, Raleigh, North Carolina 27601; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30367, and Office of the Director of Federal Compliance and State Programs, Room N3619, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the North Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective June 22, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 5th day of March 1982.

William W. Gordon,

Regional Administrator.

[FR Doc. 82-16743 Filed 6-21-82: 8:45 am]

BILLING CODE 4510-26-M

South Carolina Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the **Federal Register** (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.20 of 29 CFR provides that "Where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State plan shall be required." By letter dated February 4, 1982 from Edgar L. McGowan, Commissioner, South Carolina Department of Labor, to William W. Gordon, Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to Federal Standards: Corrections to Subpart S, 29 CFR Part 1910 Electrical, dated August 7, 1981; 29 CFR 1910.1025 Lead, new

paragraph (e)(1), dated December 15, 1981.

These standards were promulgated after public hearings held on February 4, 1982 and filed with the South Carolina Secretary of State February 4, 1982, pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (Sections 40–261 through 40–274 South Carolina Code of Laws, 1962).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards.

The State standards are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30367; and Director of Federal Compliance and State Programs, Room N3619, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective June 22, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 3d day of March, 1982.

William W. Gordon,

Regional Administrator.

[FR Doc. 82–16744 Filed 6–21–82; 8:45 am]

BILLING CODE 4510–26–M

South Carolina Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the **Federal Register** (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.20 of 29 CFR provides that "Where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State plan shall be required." By letter dated October 5, 1981 from Edgar L. McGowan, Commissioner, South Carolina Department of Labor, to Karen L. Mann, Acting Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to Federal Standards:

Section 1910.95 Noise, dated August 21, 1981; Revoked § 1910.1046 Exposure to Cotton Dust in Cotton Gins, dated June 19, 1981; Revoked § 1928.113 Exposure to Cotton Dust in Cotton Gins, dated June 19, 1981.

These standards were promulgated after public hearings held on August 25, 1981 and filed with the South Carolina Secretary of State September 17, 1981, pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (Sections 40–261 through 40–274 South Carolina Code of Laws, 1962).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards.

The State standards are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30367; and Director of Federal Compliance and State Programs, Room N3619, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective June 22, 1982.

(Sec. 18, Pub. L. 91–596 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 8th day of January, 1982.

William W. Gordon,

Regional Administrator.

[FR Doc. 82–16745 Filed 6–21–82; 8:45 am]

BILLING CODE 4510–26–M

Washington State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides, after public hearing, for the adoption of State standards which are at least as effective as Federal standards promulgated under section 6 of the Act. Sections 1952.120–124 of Subpart F set forth the State's

schedule for the adoption of Federal standards. By letters dated July 12, 1978 and August 12, 1980 from James P. Sullivan, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted a State standard and an amendment to 29 CFR 1910.1044—2,3-Dibromo-3-Chloropropane (DBCP). The permanent Federal standard was published in the **Federal Register** (43 FR 11514) on April 4, 1978. The Washington DBCP standard, which is contained in Chapter 296–62–07345 WAC, was promulgated pursuant to 34.04 RCW and of the Open Public Meetings Act of 1979, Chapter 42.30, adopted on June 28, 1978 and became effective on July 28, 1978 by Washington Administrative Order 78–10. The standard was not offered for **Federal Register** publication because of differences in the permissible exposure limit compared to the Federal standard. The State adopted an amendment to the DBCP standard on August 8, 1980, which became effective September 6, 1980 by Washington Administrative Order 80–14.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard, it has been determined that the State standard and the amendment are now identical to the comparable Federal standard and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 97174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501; or the Office of State Programs, Room N–3613, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are as effective as the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirement of State law and further participation would be unnecessary.

This decision is effective June 22, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington this 12th day of February, 1982.

John A. Granchi,

Acting Regional Administrator.

[FR Doc. 82–16742 Filed 6–21–82; 8:45 am]

BILLING CODE 4510–26–M

Washington State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of Federal standards as State standards after public hearing. Sections 1952.120–124 of Subpart F set forth the State's schedule for the adoption of Federal standards. By letter dated November 19, 1980 from James P. Sullivan, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted an amendment to the State standard comparable to 29 CFR 1910.1002, Coal Tar Pitch Volatiles.

The Federal standard was published in the **Federal Register** (37 FR 24749) on November 21, 1972. The definition of coal tar pitch volatiles is contained in Chapter 296–62–020 WAC and was promulated pursuant to 34.04 RCW and of the Open Public Meetings Act of 1971, Chapter 42.30, on September 18, 1980. The State standard became effective December 12, 1980. The State standard adopts the language and definition of the interpretative rule that appeared in the **Federal Register**

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard, it has been determined that the State standard is now identical to the comparable Federal standard and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501; and the Office of State Programs, Room N–3613, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good causes exists for not publishing the supplement to the Washington State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standard is identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standard was adopted in accordance with the procedural requirements of State law and further participation would be necessary.

This decision is effective June 22, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington this first day of March, 1982.

James W. Lake,

Regional Administrator.

[FR Doc. 82–16746 Filed 6–21–82; 8:45 am]

BILLING CODE 4510–26–M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82–98; Exemption Application No. D–2732]

Exemption From the Prohibitions for Certain Transactions Involving the Consolidated Steel & Supply Co., Employee Retirement Income Savings & Stock Investment Plan, Located in Elk Grove Village, Illinois

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of a parcel of real property (the Property) by the Consolidated Steel and Supply Co. Employee Retirement income Savings and Stock Investment plan (the Plan) to J and J Investment Company (J and J), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 9, 1982, notice was published in the **Federal Register** (47 FR 15440) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by J and J. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant represented that it has complied with the requirements of the notice to interested persons as stated in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of the Property by the Plan to J and J for the cash sum of $250,000, provided that this amount is not less than the fair market value of the Property at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of June, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-16731 Filed 6-21-82; 8:45 am]

BILLING CODE 4510-9-M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. LPR 80-6]

Report of the Register of Copyrights on the Effects of 17 U.S.C. 108 on the Rights of Creators and the Needs of Users of Works Reproduced by Certain Libraries and Archives; Final Comment Period

AGENCY: Library of Congress, Copyright Office.

ACTION: Extension of final comment period.

The Copyright Office of the Library of Congress is preparing a report for Congress in accordance with 17 U.S.C. 108(i). The subject of the report is the extent to which 17 U.S.C. 108 has achieved the intended balance between the rights of creators and the needs of users of copyrighted works which are reproduced by certain libraries and archives. Five regional public hearings have been held to elicit views, comments, and information from all interested persons, including authors, copyright proprietors, libraries, and users of all types of libraries. On May 26, 1982, the Copyright Office published a final notice in 47 FR 23061 announcing that the Office requested final written comments by July 15, 1982 from organizations and individuals whose informed opinions may contribute to the preparation of that report.

The Office also announced the availability of, and invited written comment by July 15, 1982 on, the report of library photocopying prepared by King Research, Inc. under contract to the Library of Congress.

Supplementary information concerning the 17 U.S.C., section 108(i) report appeared in a prior notice at pages 79202 through 79204 of the **Federal**

Register for November 28, 1980 (45 FR, No. 231).

By letter of June 4, 1982, the American Library Association has requested a one-month extension of the comment period to allow full consultation within the library community before comments are submitted on the King Report. The delay, it is asserted, would enable all parties to analyze the King Report more carefully and lead to more thoughtful responses that would strenghten the Copyright Office report to Congress.

The Copyright Office has a statutory deadline of January 1, 1983 for submission of the report to Congress, and the magnitude of the task before us militates against any delay in receiving comments, if they are to be given full consideration by us. For this reason, the Office cannot accede fully to the request of the American Library Association. However, to facilitate the submission of informed views, the Office hereby announces an extension to August 2, 1982 of the final comment period concerning the 17 U.S.C. 108(i) report to Congress.

DATE: To become part of the record, and to be fully evaluated in preparing the report, all comments must be received by the Copyright Office on or before August 2, 1982.

ADDRESSES: Written comments should be submitted as follows:

If sent by mail:
Office of the General Counsel, Department D.S., Library of Congress, Washington, D.C. 20540.

If hand-delivered:
Office of the General Counsel, Madison Building, Room 407, First and Independence Avenue, S.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
Dorothy Schrader, General Counsel, Department D.S., Library of Congress, Washington, D.C. 20540; Telephone: (202) 287–8380.

(17 U.S.C. 108)

Dated: June 10, 1982.

David Ladd,
Register of Copyrights.

Approved.

Daniel J. Boorstin,
The Librarian of Congress.

[FR Doc. 82-16840 Filed 6-21-82; 8:45 am]
BILLING CODE 1410-03-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Council on the Arts; Inter Arts Advisory Panel; Meeting

Pursuant to section 100a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Inter Arts Advisory Panel to the National Council on the Arts will be held on July 13, 1982, from 1:00 p.m.–5:30 p.m. in the 12th floor Screening Room and on July 14, 1982, from 9:00 a.m.–5:00 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82-16769 Filed 6-21-82; 8:45 am]
BILLING CODE 7537-01-M

National Council on the Arts, Design Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the (Design Arts Advisory Panel (Design Exploration/ Research to the National Council on the Arts will be held on July 29, 1982, from 9:00 a.m.-6:00 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections(c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

June 4, 1982.

[FR Doc. 82-16770 Filed 6-21-82; 8:45 am]
BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Byproduct Material License No. 34–13774–01; EA 81–72]

John C. Haynes Co.; Rescission of August 28, 1981; Order to Modify License

I

John C. Haynes Company, 800 Hebron Road, Heath, Ohio 43055 (the "licensee") is the holder of Byproduct Material License 34–13774–01 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). The license authorizes the possession and use of byproduct material under certain conditions specified therein. This license was originally issued on August 18, 1970. The license was due to expire on August 31, 1980; however, a timely renewal has been received.

II

As a result of the licensee's failure to make required payments to the Commission, the possibility that the licensee might lose physical control of its facility because of financial difficulties, and the failure to complete a radiation survey and decontamination report, an Order to Modify License No. 34–13774–01 was issued on August 28, 1981.

III

As of September 9, 1981 all required payments were made to the Commission by the licensee. By letter dated April 2, 1982, the licensee submitted to the Commission a copy of the paid mortage on his property and stated that he had received complete ownership of the property. On April 26, 1982 the license was amended to restrict possession of radioactive material to storage only, until final action is taken on the renewal application.

IV

In view of the foregoing, the August 28 Order to Modify License is hereby rescinded.

Effective Date: June 15, 1982, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 82-16820 Filed 6-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-416]

Mississippi Power & Light Co., Middle South Energy, Inc., South Mississippi Electric Power Association, and Grand Gulf Nuclear Station, Unit No. 1; Issuance of Facility Operating License.

Notice is hereby given that the Nuclear Regulatory Commission (the Commission), has issued Facility Operating License No. NPF-13 to Mississippi Power & Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association (the licensees) which authorizes operation of the Grand Gulf Nuclear Station, Unit 1 (the facility) by Mississippi Power & Light Company at reactor core power levels not in excess of 191 megawatts thermal (5 percent power) in accordance with the provisions of the License, the Technical Specifications and the Environmental Protection Plan.

Grand Gulf Nuclear Station, Unit 1 is a boiling water nuclear reactor located at the licensees' site in Claiborne County, Mississippi. The license is effective as of the date of issuance and shall expire at midnight on September 4, 2014.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulation. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on July 28, 1978 (43 FR 32903-32904).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) Facility Operating License No. NPF-13, complete with Technical Specifications and Environmental Protection Plan; (2) the report of the Advisory Committee on Reactor Safeguards dated October 20, 1981; (3) the Commission's Safety Evaluation Report dated September 1981, Supplement No. 1 dated December 1981, and Supplement No. 2 dated June 1982; (4) the Final Safety Analysis Report and amendments thereto; (5) the Environmental Report and Supplements thereto; and (6) the Final Environmental Statement dated September 1981.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154. A copy of Facility Operating License No. NPF-13 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and its Supplements No. 1 and No. 2 (NUREG-0831) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the U.S. Nuclear Regulatory Commission, Attention: Sales Manager, Washington, D.C. 20555. GPO deposit account holders can call 301-492-9530.

Dated at Bethesda, Maryland, this 16th day of June 1982.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82-16815 Filed 6-21-82; 8:45 am]

BILLING CODE 7590-01-M

[License: 42-16559-01, EA 82-27]

Nuclear Energy Services, Inc.; Order Imposing Civil Monetary Penalties

I

Nuclear Energy Services, Inc., Conam Insection Division, 6106 Rookin Street, Houston, Texas (the "licensee") is the holder of License 42-16559-01 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). License 42-16559-01 authorizes the use of sealed sources of byproduct material.

II

An investigation of the licensee's activities under the license was conducted intermittently during the period October 15 to November 3, 1981. In addition, at licensee's facility located in Folcroft, Pennsylvania an inspection was conducted intermittently during the period July 23 to October 15, 1981. As a result of the investigation and inspection, it appears that the licensee had not conducted its activities in full compliance with the requirements of NRC regulations. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated March 16, 1982. This Notice stated the nature of the violations, the provisions of the Nuclear Regulatory Commission regulations which the licensee had violated, and the amount of civil penalties proposed for each violation. An answer dated April 14, 1982 to the Notice of Violation and Proposed Imposition of Civil Penalties was received from the licensee.

III

Upon consideration of the answers received and the statements of fact, explanation, and argument for mitigation or cancellation contained therein, as set forth in the enclosure to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295) and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the total amount of Nine Thousand Dollars within 30 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.

IV

The licensee may, within 30 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, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within 30 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.

V

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC regulations as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties, as amended; and,

(b) Whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland, this 14th day of June 1982.

For The Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluations and Conclusions

For each violation and associated civil penalty identified in the Notice of Violation (dated March 16, 1982) the original violation is restated and the Office of Inspection and Enforcement evaluation and conclusion regarding the licensee's response (dated April 14, 1982) to each item is presented.

Item 1A

Statement of Violation. 10 CFR 34.31(a) requires that radiographers be trained in specified subjects and demonstrate an understanding of these subjects as well as competence in the use of radiography equipment.

Contrary to the above, the licensee permitted an individual without the required training, and prior to a demonstration of competence in the use of radiography equipment, to perform radiography at a field site in Mahwah, New Jersey, on July 25, 1980.

This is a Severity Level III violation (Supplement VII). (Civil Penalty—$5,000).

Evaluation and Conclusion. The licensee admits that an individual without the required training, and prior to a demonstration of competence in the use of radiography equipment, was permitted to perform radiography at a field site in Mahwah, New Jersey, on July 25, 1980. The licensee requested mitigation of proposed civil penalty on the following grounds:

1. Conam's own investigation did not establish prior knowledge by the Folcroft manager about the violation.

2. Conam's president and the individual to whom he reports cannot recall, in the 15 years they have been with the Company, a single incident where the management of Conam has been accused of coaching an employee to cover up an incident, withholding information from the Commission, discouraging employees from contacting the Commission, backdating records, or otherwise being anything but honest with the Commission.

Violations by a licensee's employee of NRC regulations are chargeable to the licensee himself regardless of management involvement. In the case in question, moreover, the results of the investigation and inspection indicate that the violation occurred with the knowledge of the Folcroft manager. Consequently, the licensee's response to Item 1A provides insufficient basis for mitigation of the proposed penalty. Accordingly, the Civil Penalty remains at Five Thousand Dollars.

Item 1 B

Statement of Violation. 10 CFR 34.22(a) requires, in part, that during radiographic operations the sealed source assembly be secured in the shielded position each time the source is returned to that position. 10 CFR 34.43(b) requires that a physical radiation survey be made after each radiographic exposure to determine that the sealed source has been returned to its shielded position.

Contrary to the above, on June 9, 1981, the sealed source assembly had not been secured in the shielded position nor had a physical radiation survey been made to determine that the source had been returned to its shielded position after a radiographic exposure. This contributed to a radiographer's receiving a radiation dose of about one rem.

This is a Severity Level III violation (Supplement IV) (Civil Penalty—$2,000).

Evaluation and Conclusion. The licensee admits that on June 9, 1981 the sealed source assembly had not been secured in the shielded position nor had a physical radiation survey been made to determine that the source had been returned to its shielded position after a radiographic exposure. This contributed to a radiographer's receiving a radiation dose of about one rem. The licensee requested remission of the Civil Penalty on the following grounds:

Fines should not be assessed because historically the Commission has not assessed a penalty with respect to licensee identified and documented incidents not resulting in overexposures.

The licensee's statement is not in accord with the NRC Enforcement Policy, 47 FR 9987 (March 9, 1982) or the Interim Enforcement Policy, 45 FR 66756 (October 7, 1980). Under both policies in Supplement IV, paragraph C.4, a Severity Level III violation is indicated where there is a substantial potential for an exposure exceeding regulatory limits. The incident in question had such a potential. Under both policies a civil penalty is usually imposed for Severity Level III violations.

It is also true that under both policies up to a 50 percent reduction of the base level penalty may be considered for violations which the licensee has identified and promptly reported. In this case, a 50 percent reduction has already been considered and granted, since the base amount of the penalty under both policies is $4,000.

Consequently, the licensee's response above provides insufficient basis for mitigation of the proposed penalty. Accordingly, the Civil Penalty remains at Two Thousand Dollars.

Item 1C

Statement of Violation. 10 CFR 34.41 requires, in part, that during each radiographic operation, the radiographer or radiographer's assistant maintains direct surveillance of the operation to protect against unauthorized entry into a high radiation area.

Contrary to the above, the licensee failed to maintain direct surveillance over a radiographic operation on October 4, 1980, at a field site in Ridgewood, New Jersey, and allowed a member of the general public to enter a high radiation area.

This is a Severity level III violation (Supplement VII) (Civil Penalty $2,000).

Evaluation and Conclusion. The licensee admits that its radiographer did not maintain direct surveillance over a radiographic operation on October 14, 1980, at a field site in Ridgewood, New Jersey, and allowed a member of the public to enter a high radiation area. The licensee requested remission of proposed civil penalty on the same grounds as stated in Item 1B. Consequently, the licensee's response provides the same insufficient basis for remission of the proposed penalty. Accordingly, the Civil Penalty remains at Two Thousand Dollars.

[FR Doc. 82-16819 Filed 6-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 and 323]

Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Receipt of Petition Under 10 CFR 2.206

Notice is hereby given that by petitions dated May 12 and 25, 1982, Mr. Joel Reynolds on behalf of the Joint Intervenors to the Diablo Canyon Nuclear Power Plant licensing proceedings, filed a request for issuance of an order to Pacific Gas & Electric Co. to show cause why it should not be required to submit an amendment to its operating license applications to reflect recent changes in the organization and management of the Diablo Canyon project. In accordance with the procedures specified in 10 CFR 2.206, appropriate action will be taken on this request within a reasonable time.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the local public document room for the Diablo Canyon plant at the San Luis Obispo County Free Library, 888 Morro Street, San Luis Obispo, California 93406.

Dated at Bethesda, Maryland, this 16 day of June, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-16816 Filed 6-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-513 and 50-509]

Washington Public Power Supply System, Washington Nuclear Project Nos. 4 and 5; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has denied two petitions under 10 CFR 2.206 filed by the Coalition for Safe Power of Portland, Oregon. The petitions asked that the Director revoke the construction permit for WNP No. 4 on the basis of a material false statement in an application for extension of the permit and revoke the permits for WNP No. 4 and WNP No. 5 in view of the Washington Public Power Supply System's recent termination of its participation in the two projects. The petitions have been denied because no material false statement was made in the extension application and because no compelling reason exists at this time for revoking the permits.

The reasons for this denial are fully described in a "Director's Decision Under 10 CFR 2.206" which is available for public inspection in the NRC's public document rooms at 1717 H Street, N.W., Washington, D.C. 20555, the Richland Public Library, Swift & Northgate Streets, Richland, WA 99352, and the W. H. Abel Memorial Library, 125 Main Street, South, Montesano, WA 98563. A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland, this 16th day of June 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-16817 Filed 6-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-509, 50-513]

Washington Public Power Supply System (WNP Nos. 4 & 5); Director's Decision Under 10 CFR 2.206

Nina Bell, on behalf of the Coalition for Safe Power, Portland, Oregon, has filed two petitions under 10 CFR 2.206 that request certain actions with respect to two nuclear projects for which the Washington Public Power Supply System (WPPSS) holds construction permits. In its petition dated November 30, 1981, the Coalition requested that the Director of Nuclear Reactor Regulation issue an order to show cause why the construction permit for WPPSS Nuclear Project (WNP) No. 4 should not be revoked on the basis of an alleged "material false statement" in WPPSS' July 1981 application for an extension of the WNP No. 4 construction permit. The Coalition has filed another petition, dated March 16, 1982, under 10 CFR 2.206 which requests that WPPSS be ordered to show cause why the construction permits for WNP Nos. 4 and 5 should not be revoked, because WPPSS has announced its intention to terminate its participation in the two projects. For the reasons set forth in this decision, the Coalition's petitions are denied.

I. WPPSS Did Not Make a "Material False Statement" in its Application for Extension of the WNP No. 4 Permit

On July 21, 1981, WPPSS submitted an application for extension of the latest completion dates for construction of WNP No. 1 and WNP No. 4.[1] WPPSS assigned the following reasons as bases for extending the permits: "Subsequent to the issuance of the construction permits delays in the construction of WNP-1 and WNP-4 have occurred. The primary factors causing these delays are as follows:

1. Changes in the scope of the projects including increases in the amount of material and engineering required as a result of regulatory actions, in particular those subsequent to the TMI-2 accident.

2. Construction delays and lower than estimated productivity which resulted in delays in installation of material and equipment and delays in completion of systems necessitating rescheduling of preoperational testing.

3. Strikes by portions of the construction work force.

4. Changes in plant design.

5. Delays in delivery of equipment and materials."[2]

On October 26, 1981, WPPSS formally advised the staff that the WPPSS Board of Directors had voted to defer further construction of WNP Nos. 4 and 5 until June 30 1983, "because of difficulties in simultaneous financing of all five of our plants now under construction, given the current high interest rates and bond market conditions."[3] WPPSS subsequently withdrew its July 21, 1981, application insofar as it requested an extension of the WNP No. 4 construction permit in view of its deferral of the project's construction.[4]

The Coalition claims that WPPSS made a material false statement in its July 21st application because WPPSS omitted any mention of cash flow difficulties affecting the completion date of WNP-4. The Coalition points to a study prepared for WPPSS that examined options to slow the pace of construction on WNP Nos. 4 and 5 as a way to reduce the burden of near-term funding requirements. *See* WPPSS, *Alternative Evaluations—WNP 4/5* (March 26, 1981) (Attachment A to Coalition petition). The Coalition also notes that the WPPSS Managing Director proposed a one-year moratorium on construction of WNP Nos. 4 and 5 in May 1981 to the WPPSS Board of Directors as a way of easing WPPSS' immediate financial burdens.

The moratorium would also provide an opportunity to re-examine WPPSS' need to build the two projects. *See* Speech of Robert Ferguson, 1 *Power Lines* (WPPSS newsletter) at 3-6 (June 12, 1981) (Attachment B to Coalition petition). The WPPSS Board of Directors approved the one-year moratorium on construction. *See* Coalition Petition at 3 (Nov. 30, 1981). The Coalition charges that, by omitting any reference to the foregoing facts, WPPSS made a material false statement, because these facts indicate "cash flow difficulties" affecting the completion date for WNP No. 4. Consequently, the Coalition urges the construction permit for WNP No. 4 should be revoked for this alleged offense.

Although the Coalition's petition might otherwise be considered moot because WPPSS has withdrawn the extension application for WNP No. 4, the substance of the Coalition's petition should be addressed to dispel the notion that WPPSS committed the alleged violation. Moreover, withdrawal of the application would not in itself absolve WPPSS of reponsibility for a material false statement had one been made. Under the circumstances here, WPPSS did not make a material false statement.

The Commission's authority to take enforcement action for material false statements derives from section 186 of the Atomic Energy Act of 1954, as amended:

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[1] The application consists of a three page letter from G. D. Bouchey, WPPSS Director of Nuclear Safety, to H. R. Denton, Director of NRR, and an affidavit signed by Mr. Bouchey. *See* Attachment C to the Coalition's Petition (Nov. 31, 1981). With respect to WNP No. 1, the application requests an extension of the latest completion date under Construction Permit No. CPPR-134 from January 1, 1982, to June 1, 1986. The application requests an extension of the latest completion date for WNP No. 4 under Construction Permit No. CPPR-174 from December 1, 1985, to June 1, 1987.

[2] Letter from G. D. Bouchey, at 1-2.

[3] Letter from R. L. Ferguson, WPPSS Managing Director, to H. R. Denton, Director of NRR (Oct. 26, 1981).

[4] Letter from J. W. Shannon, WPPSS Director of Safety & Security, to H. R. Denton, Director of NRR (Dec. 31, 1981). WPPSS indicated in this letter than it might reapply for the extension of the WNP No. 4 permit after June 1983. WPPSS has since announced termination of the project. *See* note 10 *infra*.

Any license may be revoked for any material false statement in the application or any statement of fact required under section 182, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license on an original application * * *" 42 U.S.C. 2236(a).

The Commission addressed the meaning of the term "material false statement" in its decision in *Virginia Electric & Power Co.*, (North Anna Power Station, Units 1 and 2), CLI-76-22, 4 NRC 480 (1976), *aff'd*, 571 F.2d 1289 (4th Cir. 1978) (hereinafter VEPCO). In *VEPCO*, the Commission determined that material false statements excompass material omissions. 4 NRC at 489-91. Knowledge of falsity is not necessary for liability for a material false statement. 4 NRC at 486. With respect to the materiality of an omission, the Commission stated:

By reading material false statements to encompass omissions of material data, we do not suggest that unless all information, however trivial, is forwarded to the agency the applicant will be subject to civil penalties. An omission must be material to the licensing process to bring section 186 into play * * * [D]eterminations of materiality require careful, common-sense judgments of the context in which information appears and the stage of the licensing process involved. Materiality depends upon whether information has a natural tendency or capability to influence a reasonable agency expert.

4 NRC at 491.

In the context of an application for extension of a construction permit, WPPSS' omission of a specific reference to its financial burdens and its planned delay of construction to ease those burdens did not constitute a material omission.

No specific form of application is required, but the Commission's regulations indicate that good cause for extension of a permit cause may be shown by pleading:

"among other things, developmental problems attributable to the experimental nature of the facility or fire, flood, explosion, strike, sabotage, domestic violence, enemy action, and act of the elements, and other acts beyond the control of the permit holder, as a basis for extending the completion date.

CFR 50.55(b).

No particular analysis or detailed evaluation of the reasons supporting an extension is specified, though, of course, the applicant risks denial of the application if the showing of cause is stated too summarily or excludes mention of additional reasons that would warrant extension.

In this instance, WPPSS briefly stated several common reasons contributing to delays in completion of WNP Nos. 1 and 4. Although WPPSS did not specifically mention financial considerations as a cause of delays in construction of WNP No. 4, WPPSS lists "construction delays" as one of the "primary factors" that casued its inability to meet the completion date and that would thereby justify an extension. Given the general state of the nuclear industry, the staff would consider "construction delays" to include delays caused by, or planned to alleviate, financial constraints. The staff has considered a number of extension applications in the past few years that have attributed delays in construction to economic conditions or financial considerations. *See* note 7 *infra*. The staff was generally aware that WPPSS was facing significant burdens in attempting to finance construction of its five nuclear projects. The financial strain and the decision by the WPPSS Board of Directors in June 1981 to slow construction of WNP Nos. 4 and 5 were reported in the trade press.[5]

Financial considerations leading to a planned reduction in construction activity do not pose in themselves a *safety* issue that would have tended to cause the staff to look at WPPSS' application for extension in a different light.[6] Moreover, the planned delay due to financial considerations could well have been an acceptable justification for the requested extension. Extension applications have been granted in the past when applicants have requested extension of the facility completion date on the basis of financial constraints that slowed construction schedules.[7]

This was not an instance in which, after the filing of the application, the staff had requested information about or had expressed in interest in a certain subject matter concerning the application and the applicant had failed to fully and accurately respond to the staff's request for information. And, it should be noted, the staff was informed of developments regarding construction of WNP No. 4 after WPPSS tendered the application in July 1981.[8] In view of the general state of the industry and the particular circumstances surrounding WPPSS application, the staff was not mislead by omission of a specific reference to financial constraints in the extension application. The staff does not find that WPPSS should be charged with making a "material false statement" in its July 21st application. The Coalition's petition dated November 30, 1981 is *denied*.[9]

II. No Compelling Reasons Warrant Revocation of the Permits for WNP Nos. 4 and 5

The Coalition's latest petition, dated March 16, 1982, requests that WPPSS be ordered to show cause why the construction permits for WNP Nos. 4 and 5 should not be revoked on the basis of the WPPSS Board of Directors' adoption of a resolution terminating the projects. In these particular circumstances, an order is not warranted, and, therefore, the Coalition's petition is denied.

The WPPSS Board of Directors adopted the resolution terminating the projects on January 22, 1982, and soon thereafter WPPSS informed the Executive Director for Operations of its intention to conduct a two-phase plan for termination.[10] Initially, WPPSS intends to attempt to sell the plants to a new owner. If WPPSS finds that it is unlikely that the projects can be sold in their entirety, WPPSS may attempt to sell plant equipment and materials in

[5] *See, e.g., WPPSS Construction Bonds Were Downgraded Only A Bit by Standard & Poor's*, 22 Nucleonics Week No. 25, at 9-10 (June 25, 1981); *Last Week's Downgrading of WPPSS Construction Bonds*, 22 Nculeonics Week No. 24, at 12 (June 18, 1981).

[6] *Cf. Elimination of Review of Financial Qualifications of Electric Utilities in Licensing Hearings for Nuclear Power Plants*, 47 FR 13750, 13751 (March 31, 1982).

[7] *See, e.g., Orders Extending Construction Completions Dates*, 46 FR 62989 (Dec. 29, 1981) (Callaway plant); 46 FR 56264 (Nov. 16, 1981) (Waterford Station); 46 FR 46032 (Sept. 16, 1981) (Hope Creek Station); 46 FR 29804 (June 3, 1981) (Limerick Station); 44 FR 29547 (May 21, 1979) (North Anna Station).

[8] The NRR project manager was informed by telephone in August 1981 that WPPSS was considering more extensive deferrals of construction on WNP No. 4, and generally kept himself appraised of the situation via telephone calls, media reports and site visits (for other reasons) in September and October 1981. On the basis of the uncertainties surrounding WNP No. 4's future, NRR had not initiated any review of the extension application. After the WPPSS Board approved deferral of construction of WNP Nos. 4 and 5 until June 30, 1983, WPPSS informed NRR of the construction deferral *See supra* note 3. Eventually, WPPSS withdrew the extension application. *See supra* note 4.

[9] Even if the omission had been found to be a "material false statement", permit revocation would not necessarily follow. Although section 186 of the Atomic Energy Act authorizes revocation for material false statements, it does *not* compel revocation. Rather, the Commission is empowered to impose the remedy it deems fit for the gravity of the offense, and could impose enforcement sanctions ranging from a notice of violation (10 CFR 2.201) to civil penalties (10 CFR 2.205) to appropriate orders (10 CFR 2.202 and 2.204). Any attempted suspension or revocation of the permit would also be subject to the second chance doctrine of section 9(b) of the Administrative Procedure Act. 5 U.S.C. 558(c); *see also* Atomic Energy Act section 186b. 42 U.S.C. 2236(b).

[10] *See* Letter from R. L. Ferguson, WPPSS Managing Director, to W. J. Dircks, EDO (Feb. 1, 1982) (Attachment B to Coalition petition dated March 16, 1982).

some other manner. WPPSS intends to retain the construction permits at least during the first phase of its termination plan that calls for an attempted transfer of the projects to a new owner. The construction permits for WNP Nos. 4 and 5 would otherwise expire by their own terms in 1985 and 1986 respectively.

The Coalition's petition is based on WPPSS' intended termination of the project owing to financial considerations. However, termination of the projects does not itself pose any hazard to public health and safety that would require issuance of an order to show cause.[11] Although the NRC has no interest in seeing that WPPSS salvages a portion of its investment in the projects, there is no reason for the NRC to obstruct WPPSS' efforts when public health and safety is not affected by WPPSS' actions.[12]

The staff recognizes that a similar petition under 10 CFR 2.206 has been granted on one occasion. *See Northern States Power Co.* (Tyrone Energy Park, Unit 1), CLI–80–36, 12 NRC 523 (1980).[13] The staff's action in that instance does not compel, however, the same result here. In *Tyrone*, the co-owners of the project announced no specific plans to find another owner of the project and indicated no desire to retain the construction permit.[14] Moreover, the co-owners consented to revocation of the Tyrone permit. *See Order Revoking Construction Permit*, 46 FR 11746 (Feb. 10, 1981). The circumstances surrounding the termination of WPPSS' participation in WNP Nos. 4 and 5 are different. WPPSS wants to retain the permits in the hope that it may be able to transfer the projects to a new owner. Such action, subject to Commission approval, is lawful, and WPPSS' plans to preserve the present status of the plants appear reasonable.[15] The issuance of an order to show cause is not required in these circumstances to abate some hazard to public health and safety. Although formal termination of the permits may be appropriate at some future date, no compelling reason exists to take such a step at this time.

III. Conclusion

WPPSS made no material false statement in its application for extension of the WNP No. 4. No substantial health and safety issue warrants issuance of an order to show cause. For these basic reasons, the Coalition for Safe Power's petitions dated November 30, 1981, and March 16, 1982 are *denied*. As provided in 10 CFR 2.206(c), a copy of this decision will be filed with the Secretary for the Commission's review.

Dated at Bethesda, Maryland this 16th day of June, 1982.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82–16818 Filed 6–21–82; 8:45 am]

BILLING CODE 7590–01–M

[11] *See Northern Indiana Public Service Co.* (Bailly Generating Station, Nuclear-1), CLI–78–7, 7 NRC 429, 433 (1978), *aff'd sub nom. Porter County Chap. of the Izaak Walton League, Inc. v. NRC*, 606 F.2d 1363 (D.C. Cir. 1979). In the recent statement of consideration concerning the *Elimination of Review of Financial Qualifications of Electric Utilities in Licensing Hearings for Nuclear Power Plants*, 47 FR 13750, 13751 (March 31, 1982), the Commission noted, "WPPSS' response (and that of most other utilities encountering financial difficulties) has been to postpone or cancel their plants, actions clearly not inimical to public health and safety under the Atomic Energy Act."

[12] Of course, any transfer of the construction permits would require the Commission's approval. *See* Atomic Energy Act section 184, 42 U.S.C. 2234, 10 CFR 50.54(c) and 50.80.

[13] The *Order to Show Cause* was published at 45 FR 42093 (June 23, 1980); the *Order Revoking Construction Permit* was published at 46 FR 11746 (Feb. 10, 1981).

[14] The permittees' cancellation of the Tyrone project was based largely on the Wisconsin Public Service Commission's denial of the necessary state certificate to construct the facility.

[15] *See* letter from R. L. Tedesco, Ass't Director for Licensing, Division of Licensing, NRR, to R. L. Ferguson, WPPSS Managing Director (Attachment C to Coalition petition dated March 16, 1982).

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committees Act, that the twenty-second meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will be held in the Auditorium of The Medical Society of the District of Columbia, 2007 Eye Street, N.W., Washington, D.C. from 9 a.m. to 5 p.m. on Friday, July 9, 1982 and from 8:30 a.m. to 3:30 p.m. on Saturday, July 10, 1982.

The meeting will be open to the public, subject to limitations of available space. The agenda for Friday, July 9 will include, among other things, discussion of a draft report on the ethical implications of differences in the availability of health services. The agenda for Saturday, July 10 will include, among other things, discussion of a draft report on the ethical and social implications of gene splicing in human beings.

During Friday afternoon at approximately 1:15 p.m., and Saturday afternoon, at approximately 1 p.m., fifteen minutes will be devoted to comments from the floor on the subject of any of the agenda items, limited to three minutes per comment. Written suggestions and comments will be accepted for the record from those who are unable to speak because of the constraints of time and from those unable to attend the meeting.

Records shall be kept on all Commission proceedings and will be available for public inspection at the Commission office, located in Suite 555, 2000 K Street, NW., Washington, D.C. 20006.

For further information, contact Andrew Burness, Public Information Officer, at (202) 653–8051.

Alexander M. Capron,

Executive Director.

[FR Doc. 82–16046 Filed 6–21–82; 8:45 am]

BILLING CODE 6820–AV–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 12493; 812–5193]

American General Life Insurance Co. of Delaware, et al.; Application

June 15, 1982.

Notice is hereby given that American General Life Insurance Company of Delaware (the "Company"), a Delaware stock life insurance company, American General Life Insurance Company of Delaware Separate Account D (the "Separate Account"), a separate account registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, and American General Capital Distributors, Inc. ("Distributors"), 2727 Allen Parkway, Houston, Texas 77001, the principal underwriter for the Separate Account (collectively, "Applicants"), filed an application on May 26, 1982 and an amendment thereto on June 10, 1982, for an order of exemption, pursuant to section 6(c) of the Act, from sections 26(a), 26(a)(2)(D), and 27(c)(2) and for an order approving certain offers of exchange pursuant to section 11 of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Introduction

The Separate Account funds certain variable annuity contracts currently being offered and sold by the Company (the "Current Contracts"). Subject to certain conditions, owners of the Current Contracts may, from time to

time, cause their interests in the Separate Account to be allocated for investment purposes among several of the seven divisions of the Separate Account, each of which invests its assets solely in a different open-end management investment company registered under the Act (a "Fund"). At the present time, the only divisions available for use under the Current Contracts during both the accumulation and annuity periods are divisions six and seven, and Applicants have previously applied for and received Commission approval under section 11 of the Act with respect to transfers between such divisions pursuant to the Current Contracts. The Company proposes to add division eight to provide another investment option to contract holders, as originally contemplated by the Current Contract.

The Separate Account also funds certain variable annuity contracts previously sold upon which only additional puruchase payments are now being accepted ("Original Contracts"). Original Contract owners may now have additional purchase payments invested in divisions one through seven. The Company proposes to add division eight to permit another investment option for Original Contract owners and to allow transfers among all the eligible divisions. The Company states that it will advise Original Contract owners affected by Revenue Ruling 81–225 of the possible advantages of limiting their use of the Separate Account to divisions six, seven and eight.

Exemptions From Trustee and Custodian Requirements

Section 27(c)(2) of the Act prohibits a registered investment company or any depositor or underwriter for such Company from selling periodic payment plan certificates, unless the proceeds of all payments other than the sales load are deposited with a trustee or custodian having the qualifications prescribed in section 26(a)(1) and held under an agreement containing, in substance, the provisions required by sections 26(a) (2) and (3) of the Act. Section 26(a)(2)(D) of the Act requires, in part, that under the agreement with the trustee or custodian, such entity must have possession of all the securities and other property in which funds of a unit investment trust are invested. This has been interpreted to mean that the securities owned by the trust must be represented by share certificates physically in the custody of the custodian. Each of the Funds, however, maintains an "open account" system, and certificates for shares of the Funds will not be issued to the Company in connection with share purchases by the Separate Account.

Applicants request exemptions from sections 26(a), 26(a)(2)(D) and 27(c)(2) of the Act in order that assets of the Separate Account may be held by the Company under the terms and conditions set forth in the application. In support of these requested exemptions, Applicants state that except for fund shares, the Separate Account's only assets will consist of small amounts of cash from time to time. Such cash will be kept on deposit in the name of the Separate Account with a bank meeting the requirements of section 26(a)(1) of the Act.

According to Applicants, safekeeping of Separate Account assets does not require the Fund certificates be issued to the Company and any such requirement would, in fact, result in unnecessary administrative expenses. The application states that all obligations under the Company's variable annuity contracts will be general obligations of the Company which may not be abrogated, and the assets and retained earnings of the Company provide ample assurance of its financial ability to meet its obligations under such contracts. According to the application, the Company is subject to extensive supervision and control by the insurance regulatory authorities of the State of Delaware and of each other state in which it does business.

Approvals Under Section 11

Section 11(a) of the Act, in effect, requires that the terms of any offer made to a security holder of an open-end investment company registered under the Act to exchange his or her security for the security of the same or another open-end investment company registered under the Act must receive prior Commission approval, if the exchange is to be made on a basis other than the relative net asset values of the interests to be exchanged. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of section 11(a) shall be applicable, in part, to any offer of exchange of any securities of registered unit investment trusts.

Applicants state that sections 11(a) or 11(c) of the Act could be interpreted to require Commission approval of transfers among divisions of the Separate Account pursuant to the Current Contracts. Although Applicants do not necessarily agree that any such interpretation would be correct, Applicants request Commission approval under those sections to the extent necessary to permit Current Contract owners and beneficiaries to effect transfers among the various divisions of the Separate Account, including division eight, subject to an administrative charge of $10 per transfer and to effect transfers among various divisions of the Separate Account, including division eight, pursuant to the Original Contracts. Applicants state that shares of the Funds purchased and sold for the various divisions of the Separate Account are in all cases purchased and sold at net asset value, with no sales or withdrawal charge being imposed.

According to the application, transfers among divisions of the Separate Account are intended primarily to permit a contract owner to modify a previous allocation in light of changing personal needs and evolving economic conditions, and such transfer do not generate any increased revenues or fees to the Company or its affiliates.

Section 6(c)

Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes or persons, securities, or transactions, from any provision or provisions of the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, no later than July 6, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communciations should be addressed: Secretary, Securities and Exchange Commission, Washinton, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following July 6, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or

advice as to whether a hearing is ordered, will receive any notice and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-16807 Filed 6-21-82: 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12494; 812-5201]

Variable Annuity Life Insurance Co., et al.; Application

June 15, 1982

Notice is hereby given that The Variable Annuity Life Insurance Company ("VALIC"), The Variable Annuity Life Insurance Company Separate Account A ("Account A"), and The Variable Annuity Marketing Company ("VAMCO") (collectively, "Applicants"), 2727 Allen Parkway, Houston, Texas 77019, filed an application on June 1, 1982, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants to the extent requested, from sections 26(a)(2)(D) and 27(c)(2) of the Act and pursuant to section 11 of the Act, approving certain offers of exchange. VALIC is a Texas stock life insurance company; Account A, a separate account of VALIC, is registered under the Act as a unit investment trust. VALIC is the depositor of, and VAMCO, the principal underwriter for, Account A. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Account A funds variable annuity contracts (the "Contracts") issued by VAIIC. The Contracts are individual variable annuity contracts designed to establish retirement benefits under certain programs providing federal tax advantages. Net purchase payments (the amount of a purchase payment less applicable premium taxes) with respect to the Contracts may be placed in Account A and allocated to one or more of its divisions or allocated to VALIC's general account. The assets of each division of Account A are invested solely in shares of an open-end management investment company (a "Fund"). Divisions One and Two of Account A presently used in connection with the Contracts are invested in High Yield Accumulation Fund, Inc. and American General Money Market Fund, Inc. Applicants are planning to add a Division Three which shall invest in American General Equity Accumulation Fund, Inc., regarding which the present application is being made. During the accumulation and annuity periods, the terms of the Contracts permit contractowners and, in certain cases, beneficiaries under the Contracts to make transfers between the divisions of Account A or among the divisions and VALIC's general account, subject to certain limitations. Transfers will be effected at net asset value and no transfer charge will be imposed. The privilege of making transfers during the accumulation and annuity period may be suspended or terminated by VALIC at any time.

Applicants have previously obtained an exemption from various sections of the Act, including sections 26(a)(2)(D) and 27(c)(2), relating to possession of Account A's assets, and an order under section 11 of the Act approving certain offers of exchange in connection with transfers between Divisions One and Two. Applicants assert that the terms of such exemption and approval are in all respects sufficiently broad to include the addition of proposed Division Three. Nevertheless, Applicants have been advised by the staff of the Commission that the addition of a new division will, in the staffs vien, require an order of the Commission, pursuant to Section 11 of the Act approving certain offers of exchange and pursuant to section 6(c) of the Act for exemptions from sections 26(a)(2)(D) and 27(c)(2) of the Act with respect to newly created Division Three.

Exemptions Relating To Custodial Requirements

Section 27(c)(2) of the Act prohibits a registered investment company or any depositor or underwriter for such company from selling periodic payment plan certificates, unless the proceeds of all payments other than the sales load are deposited with a trustee or custodian having the qualifications prescribed in section 26(a)(1) of the Act and held under an agreement containing, in substance, the provisions required by sections 26(a)(2) and (3) of the Act. Applicants state that, except for Fund shares, which will be maintained in an open-account system, Account A's only assets will consist of amounts of cash from time to time. Such cash will be kept on deposit in the name of Account A with a bank meeting the requirements of section 26(a)(1).

Section 26(a)(2)(D) of the Act requires, in part, that under the agreement with the trustee or custodian, such entity must have possession of all the securities and other property in which funds of a unit investment trust are invested. Applicants state that this has been interpreted to mean that the securities owned by the trust must be represented by share certificates physically in the custody of the custodian. Section 26(a)(2)(D) of the Act also requires that the agreement with the trustee or custodian provide that the securities and other property in which the funds of a unit investment trust are invested must be segregated and held I trust until distribution. Applicants assert that while the assets of Account A will be segregated, VALIC, as a life insurance company, may not properly place assets of the Separate Account in trust, because the insurance laws of the State of Texas require VALIC to retain ownership and control of the disposition of its property. Applicants state that VALIC will continue to hold in custody for safekeeping the assets of Acount A until Account A has been completely liquidated and the proceeds of the liquidation distributed to persons entitled thereto under the Contracts or until a successor trustee or custodian is appointed. The application states the VALIC will maintain a record of the names and addresses of all owners and annuitants and the amount of their interest in Account A, and that Applicants will comply with the notice requirements of section 26(a)(4).

Applicants request exemptions from sections 26(a)(2)(D) and 27(c)(2) of the Act in order that assets of the Separate Account, including uncertificated shares of American General Equity Accumulation Fund, Inc., may be held by VALIC under the terms and conditions set forth in the application.

Approvals Under Section 11

Section 11(a) of the Act makes it unlawful for any registered open-end investment company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any offer of exchange of any security of a registered open-end company for a security of a registered unit investment trust and to any type of offer of exchange of the securities of registered unit investment trusts for the

securities of any other investment company.

Applicants state that they do not believe that sections 11(a) or 11(c) should be interpreted to require Commission approval of transfers between divisions of Account A pursuant to the Contracts. Nevertheless, to remove any uncertainty, Applicants request Commission approval under those sections, to the extent necessary to permit owners, annuitants and beneficiaries to effect transfers between Divisions One and Two and Division Three pursuant to the Contracts. Applicants submit that such transfers will be effected at net asset value and will not generate any increased revenues or fees to VALIC or its affiliates. Therefore, Applicants believe the transfers between Account A's divisions contemplated by the Contracts are consistent with the purposes of sections 11(a) and 11(c) of the Act and the terms thereof should be approved by the Commission.

Section 6(c)

Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, no later than July 6, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communications should be addressed: Security, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following July 6, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notice and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-16606 Filed 6-21-82; 8:45 am]

BILLING CODE 8010-01-M

VETERANS ADMINISTRATION

Availability of Report of 38 U.S.C. 219 Program Evaluation

Notice is hereby given that the program evaluation of the Veterans Administration's Automobile and Adaptive Equipment Program has been completed.

Single copies of the Automobile and Adaptive Equipment Report are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mrs. Lynn H. Covington, Acting Director, Program Evaluation Service, Veterans Administration (074), 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: June 14, 1982.

Robert P. Nimmo,

Administrator.

[FR Doc. 82-16761 Filed 6-21-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 120
Tuesday, June 22, 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

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:30 a.m., June 24, 1982.

LOCATION: Engineering Laboratory, 10910 Darnestown Road, Rockville, MD.

STATUS: Open to the public.

MATTER TO BE CONSIDERED:

1. *Current Leakage Test*
The staff will brief the Commission and conduct a demonstration on electrical current leakage testing.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Avenue, Bethesda, MD 20207; Telephone (301) 492–6800.

[S–924–82 Filed 6–18–82; 2:50 pm]

BILLING CODE 6355–01–M

2

FEDERAL RESERVE SYSTEM: Board of Governors

TIME AND DATE: 10:00 a.m., Monday, June 28, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposals with respect to contempraneous reserve requirements (Proposed earlier for public comment; Docket No. R–0371).

2. Proposals for the treatment of seller's points under Regulation Z (Truth in Lending).

* Proposed 1983 budget objectives for the Federal Reserve System.

* Anyone planning to attend specifically for Item 3 should call 452–3206 on June 25, 1982, to assure that it has not been postponed to a future meeting.

4. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: June 18, 1982.

James McAfee,

Associate Secretary of the Board.

[S–922–82 Filed 6–18–82; 2:43 pm]

BILLING CODE 6210–01–M

3

FEDERAL RESERVE SYSTEM: Board of Governors

TIME AND DATE: Approximately 12 noon, Monday, June 28, 1982, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: June 18, 1982.

James McAfee,

Associate Secretary of the Board.

[S–923–82 Filed 6–18–82; 2:43 pm]

BILLING CODE 6210–01–M

4

FEDERAL RESERVE SYSTEM: Board of Governors

TIME AND DATE: 10:00 a.m., Friday, June 25, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Request by the General Accounting Office for Board comment on a draft report regarding bank examination for country risk and international lending.

2. Proposed consideration of policy with respect to net settlement services.

3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: June 17, 1982.

James McAfee,

Associate Secretary of the Board.

[S–917–82 Filed 6–17–82; 4:05 pm]

BILLING CODE 6210–01–M

5

METRIC BOARD

Bimonthly Board Meeting

TIME AND DATE: 9 a.m. to 5 p.m., Thursday, July 8, 1982; 9 a.m. to 11 a.m., Friday, July 9, 1982.

PLACE: Arlington Hyatt Hotel, Revensworth Hall/East, 1325 Wilson Blvd., Arlington, Virginia 22209.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Approval of Agenda—Approval of agenda for this meeting.

Review/Approval of Minutes of the Board Meeting held on May 6–7, 1982 in Arlington, Virginia.

Committee Final Reports—Committee Chairmen will make a final report to the Board.

Perspectives on Roles in Future Metric Activity—The Board will receive presentations by the organizations expected to survive the Board and continue administration of elements of the Metric Conversion Act. Panelist representing the ICMP/MOC, States (NCSM Executive Committee), ANMC and the Department of Commerce will address the Board.

Final Standards Report and Recommendations—Staff will review the Board's standards reports and discuss the results of the work and findings. The Chairman of the Planning and Coordination Committee will introduce standards recommendations for approval by the Board.

Factors of Concern to Small Business—Presentation to the Board by the contractor of the three models developed to assist

small firms in assessing the practicality of metric conversion for them.

Small Business Productivity—Mr. Bruce Phillips of the Small Business Administration will brief the Board. This project is being conducted through an interagency agreement with the Small Business Administration and has the purpose of investigating the statistical relationships between productivity, profitability, size , industry and other economic factors and metrication.

Research Utilization—A brief presentation, for information, will be provided to summarize what action has been taken to distribute the findings and increase the awareness of the Board's Research program.

Final Finanacial Report—The Executive Director will brief the Board on FY 82 expenditures.

Feasibility of a September Board Meeting—The Board will determine whether a September Board meeting is required to dispose of any remaining business for FY 82.

CONTACT PERSON FOR FURTHER INFORMATION: Lu Verne V. Hall, Staff Assistant, 703/235-1696.

Louis F. Polk,

Chairman.

[S-920-82 Filed 6-18-82: 9:53 am]

BILLING CODE 8260-01-M

6

METRIC BOARD

Planning and Coordination Committee Meeting

TIME AND DATE: 1:00-1:30 p.m., Wednesday, July 7, 1982.

PLACE: United States Metric Board, 1600 Wilson Blvd., Suite 400, Arlington, Virginia 22209.

STATUS: The meeting is open to the public.

MATTERS TO BE CONSIDERED:

Approval of Agenda

Review and Approval of Committee Report and Recommendations on Standards

Review and Approval of one-page Final Report to the Board by the Committee and Recommendations for disolution of the Committee

Other business

CONTACT PERSON FOR FURTHER INFORMATION: Alan Whelihan, 703/235-2919.

Louis F. Polk,

Chairman.

[S-919-82 Filed 6-18-82: 9:53 am]

BILLING CODE 8260-01-M

7

METRIC BOARD

Research Committee Meeting

TIME AND DATE: 11 a.m. to 1 p.m., Wednesday, July 7, 1982.

PLACE: United States Metric Board, 1600 Wilson Blvd., Suite 400, Arlington, Virginia 22209.

STATUS: The meeting is open to the public.

MATTERS TO BE CONSIDERED: Three Briefings on Research Activities: (1) General Status Briefing of Research Projects; (2) Discussion on Methodology and progress of the Small Business Metrication and Productivity Project; (3) Presentation of Three Models on the Small Business Factors of Concern Study.

CONTACT PERSON FOR FURTHER INFORMATION: G. Edward McEvoy, 703-235-1697.

Louis F. Polk,

Chairman.

[S-921-82 Filed 6-18-82: 9:53 am]

BILLING CODE 8260-01-M

8

UNITED STATES RAILWAY ASSOCIATION

Board of Directors Annual Meeting

DATE AND TIME: June 24, 1982; 10 a.m.

PLACE: Board Room, Room 2-500, fifth floor, 955 L'Enfant Plaza North, S.W., Washington, D.C.

STATUS: The first portion of the meeting will be closed to the public; the second portion will be open.

MATTERS TO BE CONSIDERED: Portion Closed to the Public (10 a.m.):

1. Internal Personnel Matters.
2. Litigation Report.
3. Review of Conrail Confidential and Proprietary Financial Information.

Portion Open to the Public (10:30 a.m.):

4. Approval of Minutes of May 27 Board Meeting.
5. Election of Officers.
6. Section 211(h) Loan.
7. Section 211(h) Loan Forgiveness For Conrail.
8. Conrail Request for Waiver of Financing Agreement.
9. Conrail Monitoring Indicators.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202) 488-8777, ext. 505.

[S-918-82 Filed 6-18-82: 8:51 am]

BILLING CODE 8240-01-M

federal register

Tuesday
June 22, 1982

Part II

Department of Health and Human Services

Food and Drug Administration

Menstrual Tampons; User Labeling

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 801

[Docket No. 80N-0425]

Menstrual Tampons; User Labeling

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to require manufacturers of menstrual tampons to include information on toxic shock syndrome (TSS) in the labeling of the device. TSS is a rare, but serious and sometimes fatal, disease associated with tampon use. FDA is requiring that menstrual tampon packages contain a brief statement alerting consumers to the dangers of TSS and advising them to read and save information about TSS included in a package insert. If the TSS information itself is placed on the package, no alert statement is required. The language of the alert statement is specified, but tampon manufacturers may develop the information about TSS within guidelines specified in the final rule.

EFFECTIVE DATE: The regulation will take effect for packages of tampons initially introduced or initially delivered for introduction into commerce December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Maria Donawa, Bureau of Medical Device (HFK-300), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7175.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 21, 1980 (45 FR 69840), FDA proposed a regulation that would have required a warning statement concerning TSS on the label of menstrual tampon packages. Interested persons were given until November 20, 1980 to comment on the proposed rule. In response to two requests and because new information had become available, in a notice published in the Federal Register of April 28, 1981 (46 FR 23766), FDA reopened the comment period until June 29, 1981. More than 300 comments were received from consumers, manufacturers, Government health departments, consumer organizations, and industry organizations. Almost all comments supported some form of labeling concerning TSS. The following summarizes the substantive comments received and FDA's responses to them.

General

1. A comment urged FDA to implement a nationally publicized campaign warning about the dangers associated with tampons and TSS.

As discussed at length in the April 28, 1981 notice, since publication of the proposed rule, information concerning TSS has been widely disseminated through the efforts of FDA, the Centers for Disease Control (CDC), State health agencies, tampon manufacturers, health professionals, and the news media. FDA intends to continue to provide information through press releases and professional, consumer, and industry education programs. Moreover, the labeling required by this rule will ensure continued dissemination of information. Thus, FDA believes that the goals of a national campaign are being met.

2. Comments argued that a warning statement on the package label of tampons is not necessary because manufacturers have already initiated education programs about TSS and tampons and because surveys show a minimum of 95 percent of women between the ages of 15 and 50 are familiar with the association of TSS and tampons.

FDA recognizes that publicity and actions taken by tampon manufacturers have done much to inform women of the association between TSS and tampon use. Nevertheless, the seriousness of TSS coupled with the potential for many new users require that information concerning TSS symptoms and what to do if those symptoms occur need to be continually provided to women who use tampons. Moreover, the effects of earlier publicity reasonably can be expected to diminish. For these reasons, FDA believes that information about TSS needs to be available on an ongoing basis. The final rule requires, therefore, that TSS information be included in a package insert with a brief statement on the outer package label calling attention to the insert or that all the information be on the package.

3. Comments suggested that the warning label is no longer necessary because the incidence of TSS is decreasing following the removal of Rely® brand tampons from the market. Comments noted that the geographic distribution of TSS cases is not consistent with the nationwide marketing of most tampon brands. Opposing comments said that the decline was illusory due to underreporting as a result of waning media interest.

Although there was a decrease in TSS cases reported to CDC following the peak of about 120 cases per month in August and September 1980, CDC advises that TSS cases have plateaued and continue to be reported at a national rate of about 50 per month. CDC further advises that "Assuming that the surveillance system detects approximately 15 percent of the cases which actually occur, it can be estimated that the true rate of severe cases of TSS is 300 to 400 per month; if milder cases of TSS are as common as severe cases, the actual rate of disease is in the vicinity of 600 to 800 cases per month" (CDC comments, June 29, 1981). Concurrently, the number of cases reported to the Minnesota Department of Health through May 1981 has shown no significant change in incidence before and after removal of Rely® brand tampons from the market (Ref. 1). FDA disagrees, therefore, that there is a basis for concluding that the incidence of TSS is now decreasing or that the incidence of TSS is related solely to use of Rely® brand tampons.

A nonuniform geographic distribution of TSS cases would be consistent with the distribution of many other diseases reported to CDC. Any such lack of uniformity can be explained in the case of TSS by noting the extensive surveillance done in the States with many cases, and the assumption made that all States would show the same number of cases relative to their population if their surveillance efforts were equal. More importantly, as noted above, no significant variation was seen in incidence before and after the removal of Rely® brand tampons from the market, and TSS cases continue to be reported at a national rate of about 50 per month. For these reasons, FDA disagrees that any nonuniform geographical distribution of TSS cases alleviates the need for tampon labeling.

FDA is concerned that many people seem to believe that the incidence of TSS is decreasing. An often quoted estimate of TSS incidence is 6.2 per 100,000 menstruating girls and women per year and originates from data from the Wisconsin Division of Health (see April 28, 1981 notice). As of January 1981, the reported incidence in Utah was 17 per 100,000 menstruating girls and women per year. Minnesota in its comments on the April 28, 1981 notice estimates an overall incidence of 6.6 per 100,000 menstruating girls and women per year. Based on these studies and the CDC data, which are the most comprehensive currently available, the agency believes that TSS continues to occur and that a reasonable estimate of current incidence is between 6 and 17 per 100,000 menstruating girls and women per year. To assure that users

are informed about current incidence, FDA is requiring that manufacturers provide information on estimated incidence.

4. A comment argued that there is no substantial evidence of record establishing a statistically significant association between TSS and brands of tampons other than Rely® brand or a material risk of contracting TSS from each brand/absorbency of tampons, citing *Council for Responsible Nutrition* v. *Goyan*, (1979–1980 Transfer Binder) Food, Drug, Cosmetic L. Rep. (CCH) ¶ 38,057 (D.D.C. August 1, 1980).

FDA rejects the comment. The legal standard applicable to this rulemaking is that the agency's action be "consistent with its statutory mandate, rational, and not arbitrary." *Pacific Legal Foundation* v. *Department of Transportation*, 593 F. 2d 1338, 1343 n. 35 (D.C. Cir. 1979). As the court explained in *Council for Responsible Nutrition* v. *Goyan*, "In the ultimate, the test is one of reasonableness."

The evidence on which FDA relies in this rulemaking is discussed or referred to throughout this preamble, particularly in paragraphs 5, 8, 9, 21, 27, and 31. In reaching its determination to issue the final rule, as in deciding on the appropriate regulatory response to many public health problems, FDA had to grapple with uncertainties, as well as with continually developing new information. Indeed, it was largely because of questions raised in the comments on the October 2, 1980 proposal and because new information became available within a reasonable time after publication of that proposal, that FDA reopened the comment period to provide an opportunity to comment on the new studies, information, and analyses. But few, if any, sets of scientific data ever provide the basis for drawing conclusions with certainty, and further delay would ill serve the interests of the public health.

The Federal Food, Drug, and Cosmetic Act (the act) and similar remedial statutes "demand regulatory action to prevent harm, even if the regulator is less than certain that harm is otherwise inevitable * * *. Awaiting certainty will often allow for only reactive, and not preventive, regulation." *Ethyl Corp.* v. *EPA*, 541 F.2d 1, 25 (D.C. Cir.) (en banc), *cert. denied*, 426 U.S. 941 (1976). Thus, the courts appropriately have concluded that:

> Regulators * * * must be accorded * * * a flexibility that recognizes the special judicial interest in favor of the protection of the health and welfare of people, even in areas where certainty does not exist. *Id.* at 24.

In FDA's judgment, the evidence before it reasonably supports the conclusion that there is a statistically significant association between TSS and brands of tampons other than Rely® brand and that the final rule should apply to all brands and absorbencies of tampons.

5. A comment said that not all the provisions of the proposed warning are authorized by sections 201(n) and 502(a) of the act (21 U.S.C. 321(n) and 352(a)). This comment points out that section 201(n) of the act provides that, in determining whether a product is misbranded, FDA shall take into account whether the labeling "fails to reveal facts * * * material with respect to consequences which may result from the use of the article to which the labeling or advertising relates * * *." The comment says further that the statement that a woman "can almost entirely avoid the risk of getting (TSS) by not using tampons" is not a material fact with respect to the consequences of the use of tampons.

FDA disagrees with the comment. Based on the evidence of the increased risk of TSS associated with the use of tampons, particularly by young women and girls, the severity and rapid onset of the disease, and the significant risk of death for users who contract TSS, FDA has concluded that failure to inform consumers about the disease constitutes omission of material facts about the products. Under the final rule, any such omission from the labeling of tampons renders the labeling false or misleading within the meaning of sections 502(a) and 201(n) of the act, and the products, therefore, misbranded.

FDA has reviewed the specific wording in the proposal to the effect that a woman can almost entirely avoid the risk of getting TSS by not using tampons. Because the number of TSS cases that are not menstrually associated has appeared to increase it may no longer be correct to say that TSS can almost entirely be avoided by not using tampons. FDA has modified the wording to reflect that it is tampon-associated TSS that can be avoided by not using tampons and has provided this as guidance on the content of labeling required by the final rule.

6. Several comments argued that it was inappropriate to combine the data from two studies as FDA did in its notice reopening the comment period.

FDA recognizes that all statistical analyses involve assumptions upon which the validity of resulting statistical inferences depend. Seldom, if ever, can the data analyst be sure all assumptions are met, and, indeed, often the data analyst knows they are not met. Yet conclusions must be drawn and decisions made utilizing all available information. It is a common and accepted practice, if no better method is available, to use a method of analysis (statistical model) in situations known to diverge by a tolerable amount from required assumptions. The data analyst bears in mind the possible degree of divergence from assumptions along with the effect any such divergency may have on the accuracy of the analyst's conclusions (i.e., the robustness of the statistical test), then proceeds to draw the conclusions with all due caution.

In this case FDA's reasoning was as follows: Both the second CDC study (CDC 2) and the study conducted by the Utah State Department of Health (Utah Study) were made to draw inferences about the same hypothesis, i.e., an association between tampon use and TSS. The fact that the two sets of data were gathered in different locations using somewhat different survey techniques was not considered as important as the fact that both sets of data contained information about the same hypothesis and that both sets of data, when analyzed separately, were not found to be different (i.e., heterogeneous). For these reasons, the data were combined and reanalyzed in the usual manner.

7. A manufacturer commented that analysis of the combined CDC 2 and Utah Study data was done on unmatched cases and controls.

FDA was aware that its analysis was done on unmatched cases and controls. As discussed in the April 28, 1981 notice, the agency compared these groups in terms of such variables as income, race, education, and marital status, and found no important differences. Because the cases and controls were unmatched, however, FDA specified the statistical tests used in its analysis, i.e., Fisher's exact and chi-square.

8. A comment said that FDA was attempting to apply the same rule to dissimilar products contrary to the holdings in *United States* v. *Nova Scotia Food Products Corp.*, 568 F. 2d 240 (2d Cir. 1977) and *Council for Responsible Nutrition* v. *Goyan*. Another comment argued that there is no evidence in the record of an association between the use of a recently introduced cotton tampon with no super-absorbent materials and the occurrence of TSS. Another manufacturer said that the incidence of TSS among users of its product is less than would be expected when compared to the percentage of controls in the studies using its product and its general market share.

FDA disagrees with these comments. Applying principles developed in Consumer Product Safety Commission (CPSC) cases, FDA may not impose the same warning requirements on a product that exhibits "significantly dissimilar functional or risk characteristics when compared with the other products" to which those requirements apply, unless FDA reasonably determines either (1) that the product presents no significantly dissimilar functional or risk characteristics that are pertinent to the objectives of the warning; or (2) that despite significant differences, application of the warning to the product remains reasonably necessary to prevent or reduce an unreasonable risk of injury associated with the product. *ASG Industries, Inc.* v. *CPSC*, 593 F. 2d 1323, 1330 (D.C. Cir.), *cert. denied*, 444 U.S. 864 (1979); *Southland Mower Company* v. *CPSC*, 619 F. 2d 499, 506–07 (5th Cir. 1980). Once FDA justifies the need for a warning affecting a general category of products, however, the burden shifts to a manufacturer to show that an individual product should be excluded from the general warning requirement. FDA is not, in the first instance, required to make an individual determination that a warning should apply to each particular product within a general category of products. *Cosmetic Toiletry & Fragrance Association* v. *Schmidt*, 409 F. Supp. 57, 61 (D.D.C. 1976), *aff'd without opinion*, Civil No. 7515 (D.C. Cir. August 19, 1977); *Bunny Bear, Inc.* v. *Peterson*, 473 F. 2d 1002 (1st Cir. 1973).

The April 28, 1981 notice discussed FDA's conclusion that there is a statistically significant association between the use of all brands of tampons and the occurrence of TSS. This association is confirmed by the tri-State study even if the data concerning Rely® brand are excluded (Ref. 1). FDA also concluded that the data do not show any statistically significant difference in relative risk from tampons other than Rely® brand, and that the relative risk is material for all brands and styles of tampons, including Rely® brand.

There has been speculation that TSS is in some way related to tampon fibers, materials, construction, or functional characteristics. None of the data available to FDA, however, shows that there is an association between the occurrence of TSS and (1) a particular tampon fiber, ingredient, or combination of ingredients (see paragraph 27) or (2) any other product characteristic, including tampon materials, construction, design, or the manner in which the device functions (see paragraph 31). FDA concludes, therefore, that there is no justification for excluding from the requirements of the final rule any brand of tampon based on its fibers, ingredients, materials, construction, design, or functional characteristics.

FDA recognizes that the data from the tri-State study do not prove a statistically significant association between the use of certain styles of certain brands of tampons and the occurrence of TSS. The tri-State study, therefore, can neither confirm nor disprove that TSS is associated with each style of each branch of tampons. FDA also recognizes that the tri-State study indicates that there are substantial differences in relative risk from certain styles of certain brands of tampons. The tri-State study does not, however, contain enough TSS cases for each style of tampons to show statistically significant differences in risk. For these reasons, FDA continues to conclude that there is an association between TSS and all tampons, and that no style of tampon presents a significantly different risk characteristic when compared to other tampons generically. The association between TSS and all tampons remains; the tri-State data do not justify a conclusion that a particular style or any brand of tampons should be excluded from the requirements of the final rule but the tri-State and the other data discussed or referred to throughout this preamble are adequate to include all tampons.

The relationship between TSS and tampon "absorbency," as defined in the tri-State study, though not unimportant, is uncertain. Indeed, the tri-State data concerning this relationship are insufficient to predict accurately the risk for each tampon brand or the relative risk among different brands of tampons. For this reason and the reasons discussed in this paragraph and in paragraph 21, FDA has determined that absorbency is not a basis upon which to exclude any style or brand of tampon from the requirements of the final rule. Nonetheless, because the risk of TSS appears to decrease as tampon absorbency decreases, the final rule requires that product labeling advise women to use tampons with the minimum absorbency needed to control menstural flow (see paragraph 21).

Differences in general market share and the percentage of controls in the studies using a particular product are small in comparison to the strong statistical association of all brands of tampons and the occurrence of TSS. Even if tampons with a particular fiber, ingredient, material, design, construction, or functional characteristic were shown to exhibit significantly dissimilar risk characteristics and consumers could identify those tampons from product labeling, application of the final rule to them would still be necessary to protect the public health and minimize the serious effects of TSS because all tampons are associated with TSS.

Apart from the argument that because the incidence of TSS among users of its product is less than would be expected when compared to the percentage of controls in the studies using its product and its general market share, the manufacturer that argued that FDA is improperly attempting to apply the same rule to dissimilar products has not brought to FDA's attention any evidence other than the tri-State study to support the claim that certain styles or brands of tampons should not be covered by the final rule. Neither have other manufacturers shown why their products should not be subject to the requirements of the final rule. Accordingly, FDA has concluded that the final rule will apply to all styles and brands of tampons.

9. A comment argued that FDA may not rely in this rulemaking on the analysis of statistical significance presented in the Commissioner's decision on cyclamates, because the decision whether to require a warning label on tampons is not analogous to FDA's decision denying approval of cyclamates as a food additive. According to the comment, the critical difference is that in cyclamates the sponsor bore the burden of proof of safety, whereas here FDA bears the burden of proving that there is a material risk of TSS from each brand/absorbency of tampons.

FDA disagrees with the comment. FDA relied in part on the analysis of statistical significance presented in the Commissioner's decisions on cyclamates and Benylin, because, as the agency pointed out in the April 28, 1981 notice, the standard of $P<0.05$ is grounded in custom not science or law. FDA then pointed out that the CDC 2 study showed a borderline ($P=0.053$) statistically significant association between TSS and tampons other than Rely® brand and that this showed that there is a 94.7 percent probability that the result is not due to chance. FDA believes that the difference between a 94.7 percent probability and a 95 percent probability is not substantial, and that, considering the particularly high incidence of TSS in young women and girls, the severity and rapid onset of

TSS, and the risk of death for users who contract TSS, a finding of material risk can be based on the former probability.

10. A manufacturer argued that FDA has established tolerance levels for aflatoxin B in peanuts and polychlorinated biphenyls (PCB's) in fish which result in a lifetime risk of cancer greater than the risk of contracting TSS associated with its product. The comment also noted that FDA has not deemed it necessary to establish warning labels for foods containing chlorinated water, even though the lifetime cancer risk is alleged by the comment to be between 1–10 per 100,000. Because the manufacturer believes the risk of TSS associated with the use of its brand of tampons is extremely small and significantly below the level of risk FDA has accepted with other products, the manufacturer claims that it would be inconsistent for FDA to require a warning about TSS on its product.

FDA disagrees with this reasoning. Each regulatory problem must be examined in its own circumstances. The studies supporting this final rule are based on actual instances of TSS occurring in humans and show that there is a statistically significant association between all brands of tampons and the occurrence of TSS, that is, a quantifiable human risk under actual use conditions. By contrast, any levels of risk attributed to aflatoxin- and PCB-"contaminated" food, expressed as upper bounds, are based primarily on extrapolations of animal data to humans and of high dose data to lower dose use. There are no data reflecting actual exposure to these substances over defined periods of time by particular individuals who develop cancer. FDA does not regulate the chlorinating of water, which is under the jurisdiction of the Environmental Protection Agency.

FDA believes, as discussed in paragraph 3, that a reasonable estimate of the risk of TSS is between 6 and 17 per 100,000 menstruating women and girls per year, and may be even greater due to underreporting. Also, for certain age groups, the risk is considerably greater than that estimated for the affected population generally (see paragraph 20). Over many years of tampon use, the resulting lifetime risk, derived from actual human experience, would be much greater than any risks assessed for animal carcinogens and described in the comment. Furthermore, every tampon poses some risk of TSS. There is no evidence that all foods pose a risk of cancer from aflatoxin and PCB's, or that food inherently poses a risk of cancer. Tampons do inherently pose a risk of TSS.

For these reasons, FDA believes that different treatment of any risk of cancer from "contaminated" foods and the risk of TSS from tampons is justified, and concludes that the circumstances of this regulatory problem warrant warning consumers about TSS on tampon packages.

Package Insert

11. Several manufacturers suggested that a package insert is more appropriate than a warning on the outer package label because it would allow greater flexibility for new knowledge, it would provide more space, and it could be processed to reach the consumer more quickly. Many comments, especially from consumer groups and individual consumers, said that FDA should require manufacturers to include in each package of tampons a package insert concerning TSS in addition to the outside warning. These comments suggested that the insert should contain information about the symptoms and development of TSS, statistics on its incidence, and actions one can take to lower the risk of TSS. Other comments said that the package insert should be short and concise to ensure that it would be read. Yet other comments said that there should be a statement on the outside of the package to draw attention to the package insert. Some comments said that FDA should not require package inserts because they would be costly and, in most cases, consumers would not read them, and that the outside labeling is sufficient to inform the consumer of the problem. A comment said that the placement of information on the outside of a package to draw attention to the insert would encourage consumers to break into packages in the store, causing economic loss to the retailer.

FDA has concluded that useful, substantive information on TSS must be provided on the package or in a package insert. FDA also believes that a short statement is needed on the outside of the package directing the attention of consumers to the package insert if a manufacturer elects to provide information in that way. FDA notes that most tampon packages already contain inserts. Manufacturers may either adapt current inserts to include the required TSS information or use separate inserts. If a package insert of either type is included, a short statement on the outside of the package is necessary to improve the likelihood that users will read and save the package insert. FDA believes it unlikely that consumers will break into packages in the store to read the package insert.

Therefore, FDA is requiring in the final rule that tampon packages include a package insert containing specified information about TSS in terms understandable by the layperson, and that the outside of the package be labeled with a short statement alerting consumers to the dangers of TSS and to the existence of the insert, or that all the information be included on the package.

Contents of Warning

12. A comment suggested that manufacturers should be permitted to vary the wording of the warning, subject to FDA's approval.

FDA has modified the proposed requirement that would have specified the wording of a warning statement on the package. In preparing the final rule, FDA accepted part of the intent of this comment. The final regulation will allow manufacturers to develop their own wording for TSS information provided that certain topics specified in § 801.430(d) are addressed adequately in terms understandable by the layperson and no false or misleading information is presented. If a package insert is used to present the information, however, § 801.430(c) in the final rule requires the following alert statement to be placed on the product package, "ATTENTION: Tampons are associated with Toxic Shock Syndrome (TSS). TSS is a rare but serious disease that may cause death. Read and save the enclosed information." Thus, provided the topics specified by § 801.430(d) are addressed, the wording of the TSS information may be varied. The agency concludes, however, that the alert statement needs to be uniform to assure that consumers are equivalently informed of the availability of TSS information.

13. Comments suggested that FDA require that the word "WARNING" on the outside label be in letters larger than the remainder of the warning statement and be printed in bright red.

FDA notes that the final regulation does not require that the word "WARNING" be used in the alert statement because the message on the outside of the box is intended to direct consumers to other TSS information if that information is included as a package insert. Paragraphs (c) and (d) of § 801.430 of the final rule require all information placed on the package label to be prominent and legible. FDA believes that it is not necessary to describe further the color or the manner in which outer package statements need to be presented.

14. A comment suggested that the warning should be shorter to make it more likely to be read. To accomplish this, the comment suggested that the last sentence warning about the symptoms of TSS be omitted.

FDA agrees in part with the comment. Under the final rule, if the manufacturer elects to use a package insert, the short statement described in paragraph 13 is required to be placed on the package label, and information about TSS warning signs and what to do if they appear is required to be included in the insert. This information should always be provided, either in an insert or on the package, to alert women about the circumstances in which they should seek medical attention.

15. Comments suggested that FDA not require the inclusion in the warning of the statement, "You can almost entirely avoid the risk of getting this disease by not using tampons. You can reduce the risk by using tampons on and off during your period." The comments said that these statements are not justified by the scientific evidence. A comment said that the first part of the statement is unwarranted because it has not been established that tampons cause TSS. Another comment stated that this requirement is unprecedented because in no other case does FDA require a statement suggesting that the consumer may not want to use the product.

FDA does not maintain that tampons are the cause of TSS. As discussed elsewhere in this preamble, FDA concludes that current scientific evidence demonstrates a statistically significant association between the use of tampons and the occurrence of TSS. FDA recognizes that not all risk of TSS can be eliminated by not using tampons because TSS occurs among nonusers of tampons; however, the risk of contracting TSS that is directly associated with the use of tampons can be eliminated by not using the product. Furthermore, CDC advises that its studies show that continuous use throughout the menstrual period increases the risk (see Ref. 2, April 28, 1981 notice). The proposed warning may be unprecedented in that it advises the consumer that one way to avoid the disease associated with the product is not to use the product. Nevertheless, the information is sound in terms of protection of the public health. The purpose of the statement is to advise women of the dangers associated with the use of tampons so that they can make an informed decision on whether and how to use the product. The significant difference between this statement and other warnings typically found on FDA-regulated products is that the statement itself sets forth the conclusion that is inherent in other such warnings, viz., do not use the product if you wish to avoid the risk associated with it. FDA, therefore, disagrees with the comments and is requiring in the final rule that information provided with tampon packages include a statement concerning avoiding the risk of tampon-associated TSS by not using tampons and possibly reducing that risk by alternating tampon use with sanitary napkin use.

16. Several comments said that the statement, "You can reduce the risk by using tampons on and off during your period" is unclear. A comment suggested that the warning should be revised to include the statement, "You can reduce the risk associated with tampon use by alternating tampons with sanitary napkins or mini-pads; when tampons are used, they should be changed at least every 6 to 8 hours."

FDA agrees with those comments that suggested that the proposed warning is unclear. As discussed in paragraph 15, the agency has revised the final regulation to require a statement concerning possibly reducing the risk of TSS by alternating the use of tampons with sanitary napkins. Because mini-pads are a type of sanitary napkin, the agency believes that it would be redundant to require that reference to them be included in any statement provided with the package.

FDA is also concerned that few data support the benefit of any particular pattern of discontinuous tampon use. In addition, no evidence was submitted to demonstrate that the risk of TSS is decreased by changing tampons at specified intervals. Nor is FDA aware of such evidence. Therefore, FDA rejects the portion of the comment suggesting that the required information recommend that tampons be changed every 6 to 8 hours.

17. Comments suggested that the warning should address the need for personal hygiene in the use of tampons because lack of hygiene may contribute to TSS.

According to some theories, personal hygiene and other factors may affect the incidence of TSS. Although it has been reported that contraceptive use may protect against the development of TSS, to date, there has been no evidence demonstrating an association between poor personal hygiene and TSS. In the absence of data showing such an association, FDA believes that it would be inappropriate to require such information in the labeling.

18. A comment suggested that the first sentence of the warning statement should be revised to add the word "sometimes" before "fatal" to put a proper perspective on the incidence of fatalities from the disease.

FDA agrees with the intent of the comment. Where specific wording is required by the final regulation, the word "may" is used to convey the thought that death sometimes can result from TSS while maintaining the brevity of the alert.

19. A comment suggested that the words "FDA advises" should be added before the warning to give more weight to the warning.

The suggestion to add "FDA advises" is rejected. The agency believes that it would be misleading to limit the alert statement in this manner because the statement is based on advice from other sources, including CDC and other public health agencies, as well as considerable data developed since the disease first was reported.

20. Several comments suggested that the warning label should state that there is an increased risk of TSS for "younger women" or "women under the age of 20."

FDA has reviewed that portion of all cases of TSS reported to CDC where tampon use was known and combined this information with the use of tampons by different age groups. As seen in the chart below, many cases of TSS in known tampon users reported to CDC have occurred in women 30 years of age or younger and about half of these cases have occurred in women 21 years of age or younger. FDA then adjusted the number of cases in known tampon users by including the number of tampon users within age groups, as reported to the agency by the The Procter & Gamble Company, and calculated the relative number of cases per tampon user to approximate relative risks within different age groups. These adjusted data in the last column of the chart further confirm the hypothesis that younger women and teenage girls are at greater risk.

AGE DISTRIBUTION OF TSS CASES [1] IN KNOWN TAMPON USERS, INCLUDING ADJUSTMENT FOR TAMPON USE AT DIFFERENT AGES

Age at onset of TSS	Number of TSS cases in known tampon users	Number of tampon users (thousands)	Relative risk of TSS [2]
10-12	9	249	36
13-15	74	2,507	30
16-18	139	4,403	32
19-21	84	4,907	17
22-24	51	5,135	10
25-27	46	4,804	10
28-30	58	4,294	14
31-33	29	4,179	7
34-36	24	3,034	8

AGE DISTRIBUTION OF TSS CASES [1] IN KNOWN TAMPON USERS, INCLUDING ADJUSTMENT FOR TAMPON USE AT DIFFERENT AGES—Continued

Age at onset of TSS	Number of TSS cases in known tampon users	Number of tampon users (thousands)	Relative risk of TSS [2]
37-39	8	2,801	3
40-42	4	2,251	2
43-45	2	1,969	1
46-48	1	1,718	1

[1] Includes definite TSS cases and probable TSS cases that resulted in death as reported to CDC before June 19, 1981 (based on computer tape information provided to FDA by CDC). These 529 cases were confirmed as having occurred in women during a menstrual period while using tampons. Of the other 538 cases reported to CDC as of June 19, 1981, 6 were confirmed as having occurred in women who were not using tampons; because of insufficient data, 532 could not be confirmed as having occurred in women who were or were not using tampons.

In the April 28, 1981 notice, FDA stated that, according to CDC, onset in 905 of the 941 cases of TSS confirmed to CDC as of January 1981 occurred in women during a menstrual period while using tampons (46 FR 23768). This statement was incorrect. The 905 figure applies to women who had onset during a menstrual period, not to women who had onset during a menstrual period while using tampons. It is not known how many of the 905 women had onset while using tampons.

The absence of information concerning tampon use in the January and June 1981 CDC data is a problem unique to those data. In the CDC, tri-State, and other case control studies discussed or referred to throughout this preamble, data concerning tampon use, time of onset of TSS, and other relevant factors were confirmed.

[2] The value for relative risk at age 46–48 was arbitrarily set at 1 and the other values normalized to it to eliminate the need to present data in fractions of whole numbers.

Although the chart above shows a greater incidence of TSS in young women, FDA notes that cases have occurred in menstruating women of all ages and that it would be erroneous to assume that menstruating women over a certain age have an insignificant risk of getting TSS. Based on these data FDA is requiring a statement in the labeling concerning the higher reported incidence of TSS in younger women and teenage girls.

21. Comments suggested that the warning label should include a statement that there is an increased risk of TSS connected with the use of superabsorbent tampons.

The Tri-State study concludes that there is a statistically significant, i.e., detectable, association between TSS and tampon absorbency. The association with absorbency, however, does not allow a prediction of the risk of TSS for each tampon brand or even the relative risks of TSS among different tampon brands. Furthermore, there is no mandatory or voluntary standard, industry agreement, or other common understanding of the meaning of "super," "regular," or any other word used by manufacturers to characterize absorbency. Thus, even, if tampons with a particular level of absorbency were shown to exhibit significantly different risk characteristics from tampons generally, consumers could not identify those lower-risk tampons from product labeling. Because one study has detected a relationship between TSS and tampon absorbency, however, FDA believes that the required information should advise women that they should use tampons with the minimum absorbency needed to control menstrual flow. From a public health standpoint, this approach is consistent with the existing, but limited scientific data regarding the relationship of absorbency to the risk of the disease.

22. A comment said that the proposed warning is misleading because it is exaggerated and fails to provide a balanced and informative picture of the risk of TSS. The comment said that the proposed warning provides no information about the nature of the risk if a woman uses tampons and implies that the risk to be avoided is substantial.

FDA believes that the alert statement and consumer information required by the final rule will present an accurate picture of what is known about the risks of TSS and will not be misleading or exaggerated. The required information is based on several studies and FDA believes that it is the information that is necessary to allow women to make an informed decision as to whether and how to use tampons.

23. A comment asserted that unless the proposed warning was changed to eliminate "FDA's proposed permanent proscription on tampon use," the warning would be inconsistent with CDC's advice and would be unjustified.

FDA believes that CDC's advice and the warning proposed in the October 21, 1980 proposal are consistent. CDC advised that the risk of TSS can be reduced by using tampons for only part of the menstural period. In the final rule, FDA requires that information provided on or in the package include the same advice. The information required by the final rule, however, goes beyond the concept of reducing the risk of TSS and provides information on how women can eliminate the risk of tampon-associated TSS. Thus, CDC's advice is a subset of the information required by FDA and is consistent with it.

FDA is not attempting to proscribe the use of tampons. FDA emphasizes that the purpose of the final rule is to provide adequate information to women so that they can make informed decisions about whether and how to use tampons.

24. Several comments suggested that the required information on the TSS symptoms was inadequate because many women ordinarily have fever, vomiting, and diarrhea during their menstrual periods.

FDA developed the list of symptons based on CDC's case definition (see October 21, 1980 proposal, Ref. 3). The symptoms include not just a fever, but a sudden fever of 102° or more, together with vomiting or diarrhea. FDA believes that these symptoms are sufficiently uncommon to justify consulting a physician, and is, therefore, requiring that information about these symptoms be provided with the package.

Placement of Warning

25. A comment suggested that manufacturers be permitted to place the required warning on the back or side panel if the area of the principal display panel of a tampon package were less than 20 square inches and if the principal display panel contained the following: "WARNING: Tampons have been associated with toxic shock syndrome, a rare disease that can be fatal. For further information, see back (or side) panel." Another comment suggested that manufacturers be permitted to put the warning somewhere other than the principal display panel provided that it could easily be seen by the consumer. This comment said that the warning statement is disproportionate in size to the principal display panel of smaller packages of tampons and that inclusion of the warning would reduce the amount of other information that could be provided to the consumer, thus placing manufacturers of smaller packages of tampons at a competitive disadvantage. The comment also said that a requirement that the warning be placed on the principal display panel would provide little benefit to the consumer because, in many instances, the pincipal display panel would not face the consumer when the product is displayed on the store shelf.

Consistent with the intent of these comments, the alert statement required by the final regulation when a package insert is used for TSS information is considerably shorter than the warning that would have been required by the proposed regulation. FDA believes that this statement can be prominently and legibly placed on all sizes of tampon packages. FDA has concluded that there is no need to require that the alert statement appear in any specific location, thus providing flexibility to manufacturers. Likewise, if a manufacturer elects to place all the required TSS information on the package, it must be prominent and legible.

26. A comment argued that warning consumers of the possibility of death from the use of tampons would frighten consumers rather than inform them of the health risk.

As of October 1981, 1,407 cases of TSS had been reported to CDC of which 89 were known to have resulted in death. FDA believes that this is a significant

risk of death and that women should be informed of this possible outcome. The comment is rejected.

Listing of Fibers

27. Several comments, including one in the form of a citizen petition, suggested that TSS as well as other adverse effects, such as allergic reactions, are associated with tampons and urged that FDA require the labeling of tampons to include a complete listing of all fibers or ingredients used in the product.

Neither the petition nor the other comments presented data to establish an association between the occurrence of TSS and a particular tampon fiber, ingredient, or combination of ingredients. FDA is not aware of evidence to establish such an association. Therefore, FDA must deny the petition at this time and will not require the listing of fibers or ingredients in the product labeling. FDA also concludes that it does not have enough information about tampon-related allergic dermatitis to require ingredient labeling at this time based on this hazard. FDA is reviewing the problem of adverse reactions that might be associated with tampons to determine whether any FDA action in addition to that already underway in the voluntary standards community would be appropriate.

Prohibited Statements

28. Several comments said that FDA should prohibit any statement claiming or implying, without adequate scientific support, that one brand of tampon presents a reduced risk. Other comments suggested that FDA prohibit any statement in the labeling minimizing the danger of TSS. One comment suggested that FDA prohibit any statement claiming that tampons are more hygienic than other menstrual products.

Section 502(a) of the act provides that a device is misbranded if its labeling is false or misleading in any particular. Section 201(n) of the act describes some of the factors FDA is to take into account in determining whether labeling is misleading. FDA will not attempt in this document to enumerate any statements with regard to TSS or to tampons in general which are false or misleading. Instead, FDA will monitor the labeling of tampons in commercial distribution to determine their compliance with the act and the final rule.

Point of Sale Notices

29. Many comments suggested that FDA require that notices concerning TSS be posted at the point-of-sale of tampons. Those comments suggested that the notices should be in the form of posters, tearsheets, brochures, or all of these. Several other comments said that such notices would be costly, and would likely not be read by women.

The initial reason for urging point-of-sale notices was to ensure that consumers were alerted to the danger of TSS until manufacturers could provide information about TSS in the labeling of tampons. FDA believes that the tampon package and information provided with it, rather than a separate notice at the point-of-sale, is more effective in informing women about TSS and tampons.

Exemptions

30. Several comments said that FDA should not allow exemptions from the labeling requirements for any individual product without definitive proof that TSS is not associated with the product. Many of these comments expressed doubt that such proof exists at this time. Several comments stated that no exceptions should be allowed under any circumstances. A comment said that FDA's "citizen petition" process is not adequate for this purpose because the 180-day period for response is too long. Another comment said that the citizen petition process would be appropriate.

FDA is prepared to consider petitions for variance or exemption from its regulations, and will consider petitions for variance or exemption from this final rule. FDA believes that the citizen petition process provided in 21 CFR 10.30 of its administrative practices and procedures regulations is adequate and that it is not necessary to establish a separate process for considering exemptions from this final rule. FDA will attempt to respond sooner than the 180 days permitted by 21 CFR 10.30.

31. A comment argued that at least one tampon brand should be exempted based on differences in construction, design, or materials between it and Rely® brand. According to the comment, Rely® brand was designed to function as a "plug," whereas the other tampon brand was designed to function as a "cylinder which expands in all directions as it absorbs the menstrual flow." The commentor also argued that brands of tampons other than Rely® brand have significant design contrasts from the tampon it manufactures.

FDA rejects this comment because the case has not been made for exempting any brand of tampons based on product characteristics. None of the data available to FDA establishes a relationship between TSS and tampon construction, design, or materials. Even if Rely® brand differed somewhat in design from other tampons, and was intended to function as a "plug," neither the difference in design nor the difference in intended function has been shown to account for the risk of TSS from Rely® brand. Furthermore, although the tri-State study concluded that Rely® brand of tampons carried a risk somewhat larger than that which would have been expected given its greater absorbency, there is a statistically significant association between the use of all brands of tampons and the occurence of TSS, even if the data concerning Rely® brand are excluded.

32. Several comments questioned what the effect of the proposed regulation would be on tampons sold through vending machines. Some comments suggested that FDA should require that the warning be posted on the outside of tampon vending machines.

As proposed, the regulation would have required that any tampon sold through a vending machine be labeled with the warning. After further consideration, FDA does not believe that this proposed requirement is necessary. FDA also believes that it is not necessary to require that a warning statement be posted on the outside of vending machines. Women tend to purchase tampons from vending machines only infrequently. They will be made aware of the association between TSS and tampons from information provided with packages obtained from other retail sources. FDA has revised the regulation by providing in new § 801.430(e) that any tampon dispensed by a vending machine is exempt from the regulation.

Reclassification

33. Several comments recommended that menstrual tampons be reclassified from class II (performance standards) into class III (premarket approval). In addition, the Obstetrics-Gynecology and Radiologic Devices Panel, an FDA advisory committee, recommended that menstrual tampons be reclassified into class III.

Reclassification of tampons into class III would require a determination, among others, that this generic type of device presents a potential unreasonable risk of illness or injury (section 513(a)(1)(C)(ii)(II) of the act, 21 U.S.C. 360c(a)(1)(C)(ii)(II)). Although TSS is a serious and sometimes fatal disease, it is a rare disease. Also, TSS has not been shown to be caused by tampons, and FDA believes that it cannot be said that tampons, in and of themselves, present a potential

unreasonable risk to health. Furthermore, reclassification of tampons into class III is not likely to result in any increase in the safety of these products, and industry, government, and academic research is underway that is directed at the relationship between tampons and TSS. For these reasons, FDA has concluded that continued regulation of tampons as class II devices (21 CFR 884.5460 and 884.5470) is sufficient to provide reasonable assurance of their safety and effectiveness.

Automatic Expiration Date

34. A comment suggested that the regulation expire automatically at the end of 1 year or 18 months to allow for review of new scientific data and developments.

FDA believes that it would be inappropriate to establish an automatic expiration date for the regulation. FDA will, however, continue to monitor studies of the incidence of TSS in the population and, if new information is presented to warrant a change, will propose to modify or revoke the regulation. Final § 801.430(d) provides flexibility in providing information concerning what is known about tampons and TSS. Thus, FDA intends that new information would be included if and when it becomes available. The agency concludes that it would be inappropriate to provide for automatic withdrawal of the final rule at any specified future date.

Request for Hearing

35. A comment argued that pursuant to § 10.40(f)(2) of FDA's administrative practices and procedures regulations (21 CFR 10.40(f)(2)), FDA should hold a formal evidentiary public hearing on the proposed rule.

FDA disagrees with this comment and denies the hearing request. Section 10.40(f)(2) provides that, in its discretion, FDA may subject a proposed or final regulation to a hearing. Because FDA has concluded that the association of TSS with tampons is a significant public health problem that needs to be addressed as promptly as possible and because FDA already has provided several opportunities for all interested persons to present their views orally and in writing, FDA believes that it would not be in the public interest to subject the proposal to a formal evidentiary hearing under Part 12 (21 CFR Part 12).

36. A comment argued that FDA is required to hold a formal evidentiary public hearing before promulgating any final rule requiring a warning on the package label of tampons, citing *Vermont Yankee Nuclear Power Corp.* v. *Natural Resources Defense Council*, 435 U.S. 519 (1978).

FDA disagrees with this comment. Neither the act, FDA regulations, agency practice, nor the Administrative Procedure Act (APA) (5 U.S.C. 551–559, 701–706) requires any type of hearing for informal (notice and comment) rulemaking, which is governed by section 4(b) of the APA (5 U.S.C. 553). Contrary to the comment's argument, nothing in *Vermont Yankee* suggests that an agency is required to hold a trial-type hearing before promulgating a rule of general applicability in accordance with the procedures set out in section 4(b) of the APA. Indeed, under *Vermont Yankee*, congressionally enacted minimum requirements for informal rulemaking are also to be regarded as the maximum requirements. The case expressly cautions against judicial imposition of nonstatutory procedural requirements.

Effective Date

37. Several comments from manufacturers stated that 60 days would not be an adequate time for compliance with the regulation. A comment stated that 120 days would be needed; a manufacturer stated that it had a 4-month inventory and that another 90 days would be required to implement relabeling of the products manufactured after the final regulations became effective. Many comments from consumers and others stated that 60 days was an appropriate time. Comments suggested that accommodations could be made for putting stickers with the warning on the package. Comments also suggested that only manufacturers, not distributors or retailers, should be required to relabel products reintroduced into commerce after the effective date of the final rule.

Because all manufacturers are voluntarily providing some information concerning TSS on or in tampon packages, FDA believes that the final regulation should take effect for all tampon packages initially introduced or initially delivered for introduction into commerce 180 days after publication of the final rule. FDA believes that this effective date will provide manufacturers adequate time to meet the requirements of the final regulation with minimal disruption and without compromising the interests of the public health.

The following reference is on file in the Dockets Management Branch, Food and Drug Administration, and is available for public review between 9 a.m. and 4 p.m., Monday through Friday.

Reference

1. "Tri-State Toxic Shock Syndrome Study: Epidemiologic Findings", Presented to the Annual Society for Epidemiologic Research Meeting June 17, 1981 Snowbird, Utah, Osterholm, M. et al.

FDA examined the regulatory impact implications of the regulation in accordance with the criteria in section 1(b) of Executive Order 12291, and found that the regulation will not be a major rule as specified in the Order. The direct costs associated with labeling for toxic shock syndrome, as well as the indirect costs due to shifts in product preferences and sales, are both small. Further, for the most part, manufacturers have already labeled their tampon packages, and shifts in sales have already taken place. Neither the initial costs nor the annual costs associated with this regulation exceed the criteria for a major rule specified in the Order. The requirements for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final regulation because the proposed rules were issued prior to January 1, 1981, and are therefore, exempt. In any event, this regulation will not have a significant economic impact on a substantial number of small entities, for the reasons stated above. A copy of the threshold assessment supporting this determination is on file with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 801

Labeling, Medical devices, Over-the-counter devices, Prescription devices, Requirements for specific devices.

PART 801—LABELING

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 502, 701(a), 52 Stat. 1041 as amended, 1050–1051 as amended, 1055 (21 U.S.C. 321(n), 352, 371(a)) and under 21 CFR 5.11 as amended (see 47 FR 16010; April 14, 1982), Part 801 is amended by adding new § 801.430, to read as follows:

§ 801.430 User labeling for menstrual tampons.

(a) This section applies to scented or scented deodorized menstrual tampons as identified in § 884.5460 and unscented menstrual tampons as identified in § 884.5470 of this chapter.

(b) Available data show that toxic shock syndrome (TSS), a rare but serious and sometimes fatal disease, is associated with the use of menstrual tampons. To protect the public and to

minimize the serious adverse effects of TSS, menstrual tampons shall be labeled as set forth in paragraphs (c) and (d) of this section.

(c) If the information specified in paragraph (d) of this section is to be included as a package insert, the following alert statement shall appear prominently and legibly on the package label:

Attention: Tampons are associated with Toxic Shock Syndrome (TSS). TSS is a rare but serious disease that may cause death. Read and save the enclosed information.

(d) The consumer information required by this section shall appear prominently and legibly, in a package insert or on the package, in terms understandable by the layperson and shall include statements concerning:

(1)(i) Warning signs of TSS, e.g., sudden fever (usually 102° or more) and vomiting, diarrhea, fainting or near fainting when standing up, dizziness, or a rash that looks like a sunburn;

(ii) What to do if these or other signs of TSS appear, including the need to remove the tampon at once and seek medical attention immediately;

(2) The risk of TSS to all women using tampons during their menstrual period, especially the reported higher risks to women under 30 years of age and teenage girls, the estimated incidence of TSS of 6 to 17 per 100,000 menstruating women and girls per year, and the risk of death from contracting TSS;

(3) The advisability of using tampons with the minimum absorbency needed to control menstrual flow;

(4) Avoiding the risk of getting tampon-associated TSS by not using tampons, and possibly reducing the risk of getting TSS by alternating tampon use with sanitary napkin use during menstrual periods; and

(5) The need to seek medical attention before again using tampons if TSS warning signs have occurred in the past, or if women have any questions about TSS or tampon use.

(e) Any menstrual tampon dispensed by a vending machine is exempt from the requirements of this section.

(f) Any menstrual tampon that is not labeled as required by this section and that is initially introduced or initially delivered for introduction into commerce after December 20, 1982, is misbranded pursuant to sections 502(a) and 201(n) of the act.

Effective date. This regulation becomes effective December 20, 1982 for menstrual tampon packages initially introduced or initially delivered for introduction into commerce after that date.

(Secs. 201(n), 502, 701(a), 52 Stat. 1041 as amended, 1050–1051 as amended, 1055 (21 U.S.C. 321(n), 352, 371(a)))

Dated: May 4, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Dated: June 2, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-16764 Filed 6-21-82; 8:45 am]

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federal register

Tuesday
June 22, 1982

Part III

Environmental Protection Agency

Chemical Information Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPTS-82004F; FRL 2039-7]

Chemical Information Rules; Manufacturers Reporting; Preliminary Assessment Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final Preliminary Assessment Information rule requires chemical manufacturers (including certain producers and importers) to submit information on approximately 250 chemicals. The information sought from manufacturers includes data on the quantities of chemicals manufactured, the amounts directed to certain classes of uses, and the potential exposures and environmental releases associated with the manufacturer's own and his immediate customers' processing of the chemicals. The information collected under this rule will answer a critical need for basic data that can be used in setting priorities for testing chemicals and for assessing risks associated with chemicals.

EFFECTIVE DATE: This regulation becomes effective on July 22, 1982.

FOR FURTHER INFORMATION CONTACT: For further information on this rule, or to obtain copies of the Manufacturer's Reporting Form, contact: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-511B, 401 M St., SW, Washington, DC 20460, Toll-free: (800-424-9065), In Washington, DC: (554-1404), Outside the USA: (Operator-202-544-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000-0420.

I. Introduction

Proposed amendments to this final rule are published elsewhere in this issue of the **Federal Register.**

EPA proposed a rule under section 8(a) of the Toxic Substances Control Act (TSCA) to obtain general use and exposure data on 2,226 chemical substances published in the **Federal Register** of February 29, 1980 (45 FR 13646). More than 150 written comments were received on the proposal and several meetings were held with members of the public. The Agency also received a petition from the Chemical Manufacturers Association requesting that the Agency provide dossiers and other information on the 2,226 chemicals for purposes of public comment. EPA responded to the petition in the **Federal Register** of April 28, 1980 (45 FR 28173). This preamble explains the final rule's provisions and addresses by topic the changes EPA has made to simplify, clarify, and reduce the burden of the rule. A document titled "Responses to Individual Comments" responds to substantive comments individually. This document is available to the public in the administrative record of this rulemaking and is considered to be incorporated by reference here. Some comments are not discussed because changes in the final rule, particularly changes in subject chemicals, have made the issues moot.

After considering comments, the Agency has changed certain provisions and significantly reduced the number of chemicals. The changes to the provisions will reduce the burden of reporting without greatly decreasing the value of the information that the rule will collect on each chemical. Also in response to comments, the Agency has added explanatory material to clarify the requirements. Because of these changes, the Agency has changed the format of the final rule. The rule is now arranged in three Subparts. Subpart A contains general provisions applicable to the entire Part. Subpart B contains reporting requirements for chemical manufacturers. Subpart C will contain the chemical processors' reporting requirements proposed separately today. This arrangement should allow manufacturers and processors to more easily identify the provisions to which they are subject.

Elsewhere in this issue of the **Federal Register,** EPA is proposing three amendments to this final rule. One amendment is the plan for follow-up reporting by processors. Another change would require reporting automatically within 60 days on chemicals recommended for testing under section 4 of TSCA by the Interagency Testing Committee (ITC). The third change would make about 50 additional ITC-recommended chemicals subject to reporting under this rule. These chemicals were listed in ITC reports 5 through 9.

A. Rule Design: Two Part Reporting

The final rule anticipates two rounds of reporting. In the first round, manufacturers of chemicals listed in § 712.30 of the rule must submit Preliminary Assessment Information Manufacturer's Reports. The reports must be submitted to EPA within four months of the effective date of the rule.

The manufacturer's report includes items on the use of a manufacturer's chemical by his customers, when the customers are also processors of the chemical. However, manufacturers may report "unknown" for their processor-customers' uses either when manufacturers do not know the customers' uses to within ±50 percent accuracy, or when the information is subject to a secrecy agreement between the manufacturer and customer.

The Agency will aggregate the customer use data for each chemical. If manufacturers report customer uses unknown for over 20 percent of the total amount of a chemical manufactured and imported, the Agency plans to initiate a second round of reporting, this time by processors, in order to complete its assessments. As noted above, the procedures for this second round of reporting are proposed for comment in a separate notice today.

B. Purpose of the Rule

The information collected under this rule will answer a critical need for basic data that can be used in setting priorities for testing chemicals and for assessing risks associated with chemicals.

For the majority of the chemicals presently listed, ITC has recommended that EPA propose testing rules. Under TSCA section 4, within 12 months of ITC's recommendation, EPA must initiate rulemaking for testing or publish a notice explaining why a test rule is not necessary. Information on potential exposure is needed for the decision. Unfortunately, available exposure information has rarely been adequate for a decision. As a result, EPA has had problems making the decisions required by statute. This rule will allow test rule decisions to be based on more complete and accurate potential exposure data.

A few chemicals on the rule were identified by public notices of substantial risk under TSCA section 8(e). For the listed 8(e) chemicals, EPA does not have sufficient exposure information to determine the extent of risks presented. When this rule provides the exposure data, EPA will be able to evaluate and recommend appropriate action for these 8(e) substantial risk notices.

We have changed the focus of the first edition of the rule to serve only the most immediate needs for assessment of test candidates and 8(e) reports. Therefore, we eliminated from the rule those chemicals proposed for purposes of general problem identification. These include chemicals proposed because of their high production volume, chemicals which the ITC has been unable to completely evaluate because of lack of

exposure data, and a small number of chemicals from other sources described in the notice of proposed rulemaking.

II. Who Must Report

A. Persons Included

1. *Manufacturers.* The term "manufacture" under TSCA includes importing and producing as well as manufacturing activities. Persons must report on each listed chemical substance that they manufactured for commercial purposes in the reporting period specified for the chemical. Discussion of the application of this rule to producers and importers follows.

2. *Producers—Miners and oil refiners.* Questions were asked during the comment period about the application of this rule to mining of chemical substances. The concern was that listed chemical substances are present in mined substances in variable or undefined concentrations and that a single chemical substance may be reported as "manufactured" more than once in the stream of commerce. Commenters felt that it must be made clear precisely at what point they are "manufacturing" a specific chemical substance that is present in a mined substance. We have provided clarification both here and in the rule.

Any method of extraction, refinement, or purification of the mined substance to make it marketable as a listed chemical substance is to be regarded as "manufacture of a listed chemical substance" for the purposes of this rule. An undefined or variable concentration mixture not intended for marketing as a listed chemical is not subject to this rule.

In general terms, mining can be regarded as extracting a substance from the atmosphere, earth, or sea. The most common methods are digging ores and drilling oil. Many persons mine complex substances containing listed chemicals in undefined or variable concentrations, but do not refine the mined substance in order to extract a particular chemical substance for use or sale. Some of the chemicals subject to this rule may be present in and produced from these complex precursor substances. However, because EPA has excluded undefined, variable composition substances from the list of chemicals subject to this rule, production or mining of the undefined, variable composition precursor is not to be reported. Only subsequent steps devoted to production of the listed chemical are reportable.

For example, persons who manufacture a chemical substance such as "sweetened naphtha, 64741–87–3," but do not refine the naphtha to produce "hexane, 110–54–3" would not report on hexane. Only the production of "hexane" as an isolated product must be reported—not previous production of more crude, complex substances such as the naphtha from which hexane is extracted.

3. *Importers.* Persons must report on any chemical substance listed in § 712.30 that they imported in bulk for commercial purposes during the reporting period.

Importers should report chemical substances imported in bulk in any grade of purity, in aqueous solution, or containing additives (such as stabilizers or other chemicals) to maintain the integrity or physical form of the substance. This does not include formulated mixtures of two or more chemicals that are not additives.

The chemicals that must be reported are those that are marketed and used as a chemical listed in § 712.30. Such chemicals were identified by name and CAS number on the Inventory regardless of purity and must be reported for this rule as chemical substances. The additives, for example, are merely to enhance the ability to use the single major component chemical, as with antioxidants. It is still the chemical substance per se that is being marketed and used, and that must be reported for this rule.

EPA interprets TSCA to provide that importers of mixtures are importers of any chemical substance contained in such mixtures. Alternatively, to the extent that such products may technically be considered mixtures as defined under TSCA, EPA has determined that effective enforcement of TSCA requires us to obtain data on such products. This is because a chemical substance in aqueous solution or containing additives is used as the chemical substance per se, and such products may account for a substantial amount of exposure to the chemical.

B. Exemptions From Reporting

Most of the comments supported the exemptions to reporting in the proposed rule. The proposed exemptions have been adopted. In addition, the final rule contains an exemption suggested by commenters to exclude reporting on the manufacture of less than 500 kilograms annually at a plant site. The Agency estimates that this exemption will exclude about 170 reports. Excluding reports of these small production quantities will not affect assessment of the chemicals and so will relieve an unnecessary reporting burden.

III. Reporting Form for Manufacturers

A facsimile of the Manufacturer's Report—Preliminary Assessment Information form appears in § 712.28. The data reporting section of the form (Section IV) has two parts: Part A: Plant Site Activities and Part B: Chemical Substance Processing by Customers. Production, processing, and use at each single domestic manufacturing site must be reported on Part A, including the number of workers, uses, and process types employed, and quantities of the chemical that are or are not recovered. Part B of the form applies to the processing of the chemical by others. Part B will account for the quantity of chemical that is distributed from the manufacturing plant site. Altogether, the form identifies where a chemical is made and in what quantities, how many workers are potentially exposed during manufacture, processing, and use at the manufacturing plant site, what likely environmental releases exist, and what quantities are used in various categories of uses both by the manufacturer and as the chemical moves into commerce.

In Part A, items 1 and 2 ask for total quantities of the chemical imported and domestically manufactured. Item 3 covers quantities lost during manufacture. Items 4, 5, 6, and 7 ask for quantities, worker-hours, and number of workers associated with enclosed, controlled release, and open process categories. Item 4 covers manufacture of the chemical; item 5 covers on-site use as a reactant; item 6 covers on-site non-reactant use; and item 7 covers on-site preparation of products. Item 8 asks how much of the chemical the manufacturer makes into products to be used by industry or by consumers; these products include the chemical itself and mixtures containing the chemical, articles with some release of the chemical possible, and articles with no release. All of the above Part A items concern the manufacturer's own activities and use of his own products.

Part B concerns the activities of the manufacturer's immediate customers (processors). Item 9 parallels item 8 of Part A; it asks how much of the chemical the customer makes into products to be used by industry or by consumers in various forms. Item 10 asks for the trade name(s) under which the manufacturer markets the chemical to his customers. This item is only to be answered if the manfacturer reports that his customers' uses are unknown for more than 20 percent of the quantity of chemical manufactured and imported. Item 11 asks the manufacturer to estimate, based upon his general knowledge of industry practices, the quantity of the chemical that is processed by his customers in enclosed, controlled, or open processes, respectively.

A. Readily Obtainable Data

TSCA section 8(a) authorizes EPA to require information that is "known to or reasonably ascertainable by" the respondent. This is defined at § 712.3(g) as "all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know, or could obtain without unreasonable burden." For purposes of this section 8 rule, the Administrator has determined that a lesser standard should apply.

The rule requires persons to report data that are readily obtainable by management and supervisory employees responsible for manufacturing, processing, distribution, technical services, marketing, and other related activities. These knowledgeable people are responsible for providing estimates and associated accuracy levels for the data elements on the form. The comments supported this standard.

B. Accuracy for Reporting

The proposal discussed options for the accuracy to be required for reporting quantities of a chemical under the rule. As the proposal stated, exact numbers will not be required. We consider that permitting estimates to be reported will provide data sufficient for the purposes of this rule and will make the reporting easier. Comment was requested on various options for the required accuracy. These were: accuracy of ±50 percent for all quantities; accuracy of ±10 percent or ±20 percent on a person's own activities and ±50 percent on others' activities; or allowing respondents to specify the accuracy. We have decided that the accuracy should be related to the activity reported. For most of Part A of the form, dealing with a manufacturer's own activities, estimates must be the best estimates from readily obtainable data, but no specific accuracy range will be required. For items 3b, 3c, and 3d relating to losses during manufacture, accuracy must be specified by the respondent. For Part B of the form, dealing with processor-customers' activities, quantities must be reported within ±50 percent.

We are persuaded that manufacturers must routinely know their own production efficiencies and quantities in order to control their costs and price their products. Thus, when manufacturers report about their own activities, the best estimate from readily obtainable data would be sufficiently accurate. There is no need for the company to expend further effort to report more exactly. For example, it will be legitimate for a company to report figures based on design capabilities of a process. Thus if a process is planned to utilize or produce a certain quantity per "run" or per unit time, or is planned to produce a certain quantity of product from a defined quantity of feedstock material, then the company may assume that the design quantities are the actual quantities, and not attempt to account for variations.

Most of the companies who commented favored the broadest possible limits on accuracy of quantities reported. Except for the questions relating to losses during manufacture and customer activities, companies simply endorsed broad limits without discussion. They cited no specific difficulties in reporting on quantities going into and coming out of their own production processes. One commenter in fact said, "If we do it, we know it." The Agency has concluded that reporting on the basis of readily obtainable data will not impose significant burdens.

Based on review of comments and our intention to ease the reporting burdens, the final rule allows estimates for worker-hours and numbers of workers, as well as for quantities of the chemicals to which workers will be exposed. The estimates for worker-hours and number of workers should be based on readily obtainable data.

Items 3a, 3b, 3c, and 3d deal with losses during manufacture of the chemical. Comments said lack of measured data presented a serious difficulty in meeting the proposed level of accuracy for quantities reported on question 3a. For the final rule, manufacturers may calculate the total loss for question 3a by finding the differences between the quantities theoretically manufactured, and quantities actually used or sold. For items 3b, 3c, and 3d, we have decided to allow respondents to simply tell us the accuracy of the quantities reported. The following difficulties were cited for reporting the destiny of losses: many times the amounts lost are very small, on the order of parts per million, and a 10 percent or 50 percent difference would be insignificant or unmeasurable; routine methods for analyzing emission or effluent amounts do not exist in most cases; and in some cases there are multiple sources of loss that would make calculations extremely difficult. We have concluded that by allowing companies themselves to specify the accuracy of the figures, based on readily obtainable data, we will receive the estimates we need, without imposing unnecessary burdens. Companies are not required to conduct monitoring to comply with this rule; they may answer this item by mass balance estimates.

The accuracy of reporting customer activities under item 9 of the proposed form received the greatest attention from commenters. Most commenters felt that quantities of a chemical processed by individual customers in enclosed, open, or controlled release operations would be beyond their knowledge in most cases. Furthermore, the proposed item 9 asked for quantities of chemicals by customer use and process category in a combined matrix. This simultaneous accounting for quantities would have required a customer-by-customer accounting, followed by sorting and aggregating quantities into 16 matrix boxes. In the view of most companies, this complicated accounting together with their lack of knowledge of customer processes would have resulted in frequent reporting of quantities as "unknown."

We have changed the reporting of customer activities in response to difficulties described in comments. The final form has two items, 9 and 11, to cover customer activities. Item 9 now asks for quantities by customer use within ±50 percent accuracy. Commenters indicated that this could be done. Where respondents cannot report within ±50 percent, or where they have a secrecy agreement with the customer, they may report "unknown." Item 11 now asks for the respondent's estimate of the kinds of processes generally used for the chemical.

In general, manufacturers should report information on their customers' uses to the extent that this information is known. Manufacturers are not required to obtain additional information from customers for this rule.

C. Reporting Worker-Hours, Number of Workers, and Quantities: Items 4–7

As a result of comments, EPA has simplified reporting of worker-hours, number of workers, and quantities by process category under items 4–7. Only the workers directly assigned to the manufacturing, processing, and use of the chemical should be counted. Maintenance workers should be counted only if they are directly assigned to and are a regular part of a process.

When answering the items on worker-hours or number of workers, respondents must (i) identify the process category (enclosed, controlled release, or open) with which the worker spends the most time, and (ii) determine the number of workers involved with a given process category. For multiprocess operations, workers operating more than one process category should be listed

only once—under the process category with which they work most of the time. This should avoid double counting of workers.

Worker-hours need not be calculated from detailed production records, but may be based on design factors. That is, worker-hours may be estimated from the plant's production of a given chemical and the design number of employees needed to achieve that production.

The final rule simplifies reporting by requiring the total number of workers involved in each process category, and deleting the proposed distinction between full and part-time workers. The number of workers should include employee turnover, and will not necessarily correspond to worker-hours. Include all employees who work on a given chemical's production or processing, regardless of the length of time of employment.

Instructions have been clarified regarding items on the quantity of a chemical that goes through each process category. Chemical production could involve a single process or a multiprocess operation, a split stream involving different processes, or two separate streams involving different processes (e.g., one stream might be for a reagent grade chemical and another for a technical grade). The instructions discuss how to handle reporting in these differing circumstances.

D. Preparation and Uses of Manufacturer's Products: Items 7 and 8

The form has been revised to identify more clearly the distinct activity of on-site product preparation (making a product containing the manufactured chemcial). Item 7 in the final rule applies only to plant sites that both manufacture and process a chemical. If a manufacturer of a listed chemical also produces a formulated mixture or other industrial or consumer product containing the chemical, he must report the chemical quantities, number of workers, and process categories in this question.

Item 8 asks for the quantities of the substance incorporated into various use categories of products produced by the manufacturer at the reporting site. This item also incorporates proposed question 12 on export of the chemical substance (as the chemical or as part of a product).

Commenters thought we should differentiate between institutional and industrial uses to better judge exposures. We do not believe that this degree of differentiation will contribute to the evaluation of a chemical without more information on the manner of use of the chemical. Therefore, for the purposes of this rule, "industrial" and "institutional" products are treated in the same manner.

Commenters said the definition of consumer products should have the same exemptions as listed in the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)(D)) (CPSA). We have not adopted this suggestion. Our purpose in citing CPSA is simply to help differentiate between consumer and industrial products. Thus, the CPSA definition, without its exemptions, is included in the rule to guide manufacturers in categorizing their products.

E. Categorizing Uses Under Items 8 and 9

Items 8 and 9 differentiate products into articles containing listed chemicals versus products that are chemical substances or mixtures. Articles are further differentiated into those designed so that there is no release of the chemical during normal use, versus articles that may allow direct user contact with the chemical during normal use. In evaluating exposure potential, chemicals in "articles with no release" will be considered as having potential exposure only during disposal or mishandling of the article.

One commenter said that fabrics with dyestuffs retained on them should be considered as articles containing chemicals. We agree. These would generally be "articles with some release" since the chemical dyestuffs would be in direct contact with the user.

F. Customer Uses: Items 9, 10, and 11

Items 9 and 11 ask the manufacturer to estimate the quantities of the chemical that his customers incorporated into various categories of products, exported, consumed as reactant, and processed by various categories of process. The manufacturer is to base his estimates on his knowledge of the market for the products and his customers' roles in that market.

If manufacturers do not know how all quantities of the marketed chemical are used by customers, or if a use is subject to a secrecy agreement with the customer, the amount may be reported as "unknown". If the manufacturer reports that more than 20 percent of the total quantity manufactured and imported has unknown uses, in question 10 he must provide the trade names under which he marketed the "unknown" amount. The Agency, as discussed below, will use the trade names for processor reporting, if it becomes necessary for that chemical.

G. Follow-up Reporting

Nearly every industry comment requested that EPA eliminate the proposed requirement to submit customer lists for purposes of follow-up reporting on customer data that are unknown to manufacturers. Commenters cited several difficulties with the approach, including their own confidentiality concerns and the burden of making up the lists when there are many customers. In addition, some pointed to the potential burden for all concerned, including EPA, of having follow-up proceed by mailing of letters back and forth. This would be difficult, especially when manufacturers have customer addresses for deliveries rather than addresses for technical contacts.

The Agency sees merit in many of the comments on the proposed approach and is proposing a different one in a separate proposed rule elsewhere in this issue of the **Federal Register**. The separate notice describes the new proposal and discusses the comments already received on processor reporting. In general, under the new approach, the Agency would aggregate the manufacturers' reports on a chemical. If "unknown" uses are reported for more than 20 percent of the aggregate quantity manufactured and imported, the chemical will be the subject of follow-up reporting by processors. The market names for the chemical will be taken from the responses to question 10 of the manufacturers' reporting forms. These names will be published, and processors of the chemicals under these names will report about them. This approach is based on commenters' suggestions that EPA should specify criteria that would trigger follow-up reporting, and that EPA should publish trade names on which processors must report in order to protect the confidentiality of chemical product composition.

H. Time Allowed To Report

For the final rule, we based the time allowed to report on comments, changes in provisions of the rule and form, and the significantly decreased number of chemicals subject to reporting. From available data, we estimate the average and median number of reports for a manufacturing site now to be 2.8 and 2, respectively. The maximum number of reports from any site is expected to be 35; the site with 35 reports has over $1 billion sales annually. Based on these data, four months from the effective date of the rule should allow enough time for reporting.

I. Reporting Period

The Agency received comments saying that records of data to be submitted under this rule are often kept by a corporate fiscal year that does not coincide with the calendar year, and that it would be difficult for these companies to report by calendar year as originally proposed. To reduce this aspect of the reporting burden, EPA has changed the reporting period in the final rule. A company should report a chemical's production during the company's most recent complete corporate fiscal year as of the date the chemical is listed in § 712.30. This is the reporting period referred to in the discussion of reporting requirements for manufacturers. Even though these reporting years may vary somewhat among manufacturers, the disparity will not significantly affect the value of the data for purposes of this rule.

J. Plant Site Reports

In response to comments that it would be burdensome for companies to aggregate data from their plant sites before submitting it to EPA, the final rule now requires a form to be submitted for each plant site. Thus the address of the plant site must now be provided on the form, along with the Dun and Bradstreet number for the plant site when that number exists. The reporting company may decide whether to have headquarters or individual sites complete forms, depending on which is more convenient for the company. This approach also allows EPA to gather data that can be compared to the site-specific data on the Inventory. This comparison will allow the Agency to assess changes in the dimensions of potential exposure, and to consider potential local problems.

A question was raised in the comments about whether a company manufacturing a chemical to order for another company should submit the form or let the buyer submit it. The answer is that the actual manufacturer, not the buyer, should submit the form.

K. Recordkeeping

Commenters expressed concern over the proposed requirement to maintain records that support information submitted to EPA. The proposed five-year retention period was said to be too long and too burdensome. The Agency agrees that this provision should be deleted. The records supporting reporting under this rule will be records that companies will retain as a matter of business. Companies should be alert to the possibility that they may be required to report under this rule in the future and consider or, if necessary, reconsider their recordkeeping practices in that light.

IV. Chemicals Subject to the Rule

The final rule applies to the approximately 250 chemical substances and three categories listed by CAS number in § 712.30. Manufacturers and importers must report on these substances. (An alphabetized list of the chemicals can be requested from the Industry Assistance Office at the telephone number given at the beginning of this notice.) The three categories of chemicals need be considered only by persons who reported confidential chemical identities for the Inventory.

We wish to note that we will use future iterations of this rule to collect information on additional chemicals. One list of additional chemicals is proposed for comment separately in this issue of the **Federal Register.** We are also separately proposing that certain chemicals be placed automatically on the list and that reporting be immediately required on those chemicals without proposal and comment.

Commenters wanted EPA to list the names of all chemicals that must be reported for this rule, and not to list any category names of chemicals. The Agency does not intend that reports be submitted on all chemicals that fall within the listed categories. The purpose of listing the categories is to require reporting on certain chemicals that are confidential on the TSCA Inventory. (Listing the CAS number of a confidential chemical would automatically divulge its identity.) Of the chemicals that fall within listed categories, a manufacturer must report only on the chemicals that he claimed confidential for the TSCA Inventory.

V. Other Issues

A. Small Manufacturers

Section 8(a)(3) of TSCA requires the Administrator to consult with the Small Business Administration and then to prescribe, by rule, standards to determine who may qualify as a small manufacturer or processor. Such small businesses are then exempt from section 8(a) rule requirements. However, if a chemical substance is subject to certain proposed or final actions by the Agency, EPA need not apply the section 8 exemption for small businesses manufacturing or processing the chemical. Among the actions that could remove the small business exemption are proposed rules under section 4, 5, or 6 of TSCA. Although several chemicals in the list published today are subject to section 4 proposals, EPA has decided not to require any reporting by small businesses. The additional data from those companies would not significantly influence the overall preliminary assessments.

For this rule, for a plant site to qualify as small with respect to a listed chemical, a manufacturer or importer must meet both of the following criteria:

i. Total annual sales taken together of all sites owned or controlled by the foreign or domestic parent company were below $30 million for the reporting period.

As chemicals become subject to this rule in the future, the Agency will consider the need to adjust this dollar figure to reflect inflation. Sales figures would be based on activities at all of the plant sites of the reporting firm, its parent, and all subsidiaries owned or controlled by the parent company. The parent company owns or controls another company if the parent owns or controls 50 percent or more of the other company's voting stock, or other equity rights, or has the power to control the management and policies of the other company.

ii. Total production of the listed substance for the reporting year was below 45,400 kilograms (100,000 pounds) at the plant site.

The EPA has consulted with the Small Business Administration in developing the exemption standard for the rule. The exemption criteria for this rule have not changed from the proposal, except for the addition of a factor to correct the sales cutoff for inflation.

B. Confidentiality

1. *Certification.* Some commenters noted that the effort they would have to spend to substantiate claims of confidentiality by answering the proposed substantiation questions would exceed that spent in answering the substantive questions presented in the form. After considering comments, we have concluded that the method of substantiation outlined in the proposal was overly burdensome and that a simplified method of substantiation should be adopted for this rule.

For the final rule, in order to claim any information on the form as confidential, the respondent must certify, as in the Inventory Reporting Regulations, that the claims of confidentiality are made in good faith and that the four listed statements are true. This simplification will substantially reduce industry's expenditure of time, money, and personnel.

The final reporting form has separate signature blocks for confidentiality certification and for technical accuracy certification. This should alleviate the concerns of commenters who said that an importing subsidary may not be able to certify to confidentiality claims for information supplied by a foreign parent. In this case, the foreign parent can certify regarding confidentiality and the U.S. subsidiary can certify the accuracy of data.

2. *Release of data to the public.* Industry and public interest groups expressed concern as to whether or not EPA planned to publish aggregates of data from this rule or publish only those discrete data items that are not claimed confidential. One public interest group preferred that the Agency release discrete data elements not claimed as confidential. They felt this would aid people in identifying local problems. Industry generally favored publishing aggregates of the data.

There are two purposes for releasing data received by the Agency:

i. To allow the public and the states to conduct local activities to identify and control risk situations, and

ii. To allow public comment on the aggregate data the Agency uses to make its decisions.

The first purpose seems best served by the release of discrete data items that have not been claimed confidential. However, comments indicated most of the reported data will be legitimately claimed to be confidential business information. Therefore, the public would be likely to receive only incomplete data that had not been claimed confidential. Moreover, the release of discrete non-confidential data elements would limit the release of the aggregate data used in risk assessments; discrete non-confidential data could be subtracted from the aggregate to reveal secret data.

Given these considerations, we have decided to release the following types of non-confidential data:

i. Identification of a firm or plant site that manufactures or processes a chemical, except when this fact is confidential.

ii. Aggregate data on production, uses, and workers for each chemical.

It will be necessary for us to withhold some data that have not been claimed confidential in order to protect confidential data within an aggregate. However, the Agency will determine its aggregation method in a manner that will allow as much data as possible to be released, but that will not allow confidential information to be recognized by the public. By releasing aggregate data we will be able to share information with the public, including the regulated industry.

VI. Economic Impact

EPA estimates that chemical manufacturers will spend a maximum of $760,000 to report on the approximately 250 chemicals on this rule.

The fixed costs per plant site to comply with the rule are estimated at $480. This includes time to become familiar with the reporting requirements, and time to determine which listed chemicals the plant site produces. Variable costs of compliance are estimated at an additional $420 per report that must be submitted. The variable costs include time to determine the information required, to determine whether the information should be claimed as confidential, and to complete the form and certification requirements. For the median company, the rule will cost a maximum of about 0.004 percent of its profit. This is not a balance sheet loss, but a theoretical cost based on time the company will spend searching for data.

The fixed and variable cost estimates were based on the number of hours that would be required to complete a form. EPA estimated an average of 18 hours for a site to become familiar with the rule, determine which chemicals to report on, and put together a final package for submittal to EPA. This figure could be lower or higher depending on how many forms are involved. An additional 16 hours were estimated for a site to complete each form. At an average of 3 reports per site, these estimates allow 66 hours (18+(3 × 16)) for an average site's compliance.

TSCA Inventory data show that about 450 plant sites will submit a total of about 1,300 reports. The plant sites represent about 330 companies, for an average of about 4 reports per company.

VII. Rulemaking Record

The administrative record for this rule (docket number OPTS 82004) contains the following documents. All documents, including the index to this public record, are available to the public in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. weekdays, Rm. E-107, 401 M St., SW., Washington, DC 20460. This record includes basic information considered by the Agency in developing the final rule. The record includes the following information, which is more specifically described in the TSCA Section 8(a) "Level A" Rulemaking Index to the Public Record:

(1) The Advance Notice of Proposed Rulemaking (OTS-82004a), published in the **Federal Register** of June 27, 1979 (44 FR 37517).

(2) Initial Report of the TSCA Interagency Testing Committee published in the **Federal Register** of October 12, 1977 (44 FR 55026).

(3) Written comments to the Advanced Notice of Proposed Rulemaking, numbered 1 through 33 (OPTS-82004a).

(4) Chronologically ordered preproposal comments, minutes, and released drafts, numbered 1 through 15.

(5) The proposed rule, "General Recordkeeping and Reporting Requirement: Preliminary Assessment Information" (OPTS-82004b), published in the **Federal Register** of February 29, 1980 (45 FR 13646).

(6) Petition presented to EPA on March 17, 1980 by the Chemical Manufacturers Association (CMA), and EPA's response, published in the **Federal Register** of April 28, 1980 (45 FR 28173).

(7) Support documents, including:

(a) "Chemical Source List" File, describing the sources and criteria used to select the chemicals for this rule.

(b) High volume criterion, confidential file 20-8020030.

(c) Economic Impact Analysis and references.

(d) "Chemical Use List" and references to its file (OPTS-10001), published in the **Federal Register** of July 25, 1978 (43 FR 32222).

(e) Inter-agency survey by EPA, including all correspondence with other agencies in reference to this rule.

(f) Support documents for final sec. 8(a) "Level A" rule, including inter-, intra-agency, and outside correspondence in reference to this rule.

(8) All written comments to the Proposed Rule (OPTS-82004b).

(9) Telephone comments to the Proposed Rule (OPTS-82004b).

(10) Notices concerning the proposed rule: corrections to the rule published in the **Federal Register** of April 7, 1980 (45 FR 23473), and April 18, 1980 (45 FR 26386), and a notice of public meetings published in the **Federal Register** of April 28, 1980 (45 FR 28176).

(11) Transcripts of public meetings on the Section 8(a) "Level A" Rule.

(12) Miscellaneous agency comments, corrections, and correspondence relating to the rule.

(13) Cross references to test rules developed under TSCA section 4(a).

(14) Any comment received from the Office of Management and Budget during its review of the rule regarding compliance with the Paperwork Reduction Act, or Executive Order 12291.

(15) The document titled "Responses to Individual Comments," which contains Agency responses to comments

on the proposed rule. This document is also considered to be incorporated by reference in this **Federal Register** notice of the final rule.

Additional documents may be added to the Public Record. Within 30 days of the date of publication, please notify us of any errors or omissions in the Public Record. Address all correspondence to:

Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

VIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it does not have an effect of $100 million or more on the economy. It is expected to have a one-time maximum cost to chemical manufacturers of about $760,000. It does not have a significant effect on competition, employment, investment, productivity, innovation, or ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets. This regulation was approved without comment by the Office of Management and Budget (OMB) as required by Executive Order 12291.

The information submitted under this rule will cost manufacturers approximately $3,000 per chemical. It is difficult to put an absolute value on information, but the Agency has experienced costs of $10,000 per chemical for even fruitless searches of general reference sources for exposure information. The information to be reported, general as it is, will be of much greater quality and thus reliability than any data otherwise available. When the information is used by EPA and other Federal agencies to set priorities among chemicals, the rule will benefit the public primarily by identifying chemical hazards and thus allowing reduction of risks to health and the environment. The rule will also save public and private time and expense by directing regulatory attention away from many chemicals of lesser apparent risk. The potential value of the rule's information thus will be much greater than the cost of reporting.

B. Regulatory Flexibility Act

Since this rule was proposed before the effective date of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the Act's requirements do not apply. However, this rule is consistent with the Act's objectives in that it exempts small businesses from reporting under this rule. EPA consulted with the Small Business Administration, Size Standards Division, in developing this exemption.

C. Paperwork Reduction Act

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, U.S.C. 3501 et seq., and have been assigned OMB control number 2000–0420.

This rule requires manufacturers of about 250 chemicals to submit a two-page form describing their own and their customers' activities. The data to be submitted will permit EPA to estimate how much of a chemical is made for consumer versus industrial uses, how much is lost to the environment, the number of workers exposed during production and processing, and the degree of that exposure.

The rule provides the minimum information needed to assess the risks of human and environmental exposure to chemicals in U.S. commerce. EPA has chosen 250 of the approximately 55,000 chemicals in U.S. commerce for reporting under this rule.

List of Subjects in 40 CFR Part 712:

Chemicals, Environmental Protection. Reporting and recordkeeping requirements.

Dated: June 7, 1982.

Anne M. Gorsuch,

Administrator.

Therefore, 40 CFR Chapter I is amended by adding a new Part 712 to read as follows:

PART 712—CHEMICAL INFORMATION RULES

Subpart A—General Provisions

Sec.

712.1 Scope and compliance.
712.3 Definitions.
712.5 Method of identification of substances for reporting purposes.
712.7 Report of readily obtainable information for Subparts B and C.
712.15 Confidentiality.

Subpart B—Manufacturers Reporting—Preliminary Assessment Information

712.20 Manufacturers and importers who must report.
712.25 Exempt manufacturers and importers.
712.28 Form and instructions.
712.30 Chemical lists and reporting periods.

Authority: Sec. 8(a), Toxic Substances Control Act, Pub. L. 94–469 (90 Stat. 2003, 15 U.S.C. 2601 et seq.).

Subpart A—General Provisions

§ 712.1 Scope and compliance.

This Part establishes procedures for chemical manufacturers and processors to report production, use, and exposure-related information on listed chemical substances. Subpart A establishes requirements that apply to all reporting under this Part. Subparts B and C, respectively, cover manufacturers' and processors' reporting.

§ 712.3 Definitions.

The definitions in section 3 of TSCA, 15 U.S.C. 2602, apply for this Part. In addition, the following definitions apply:

(a) "Byproduct" means any chemical substance or mixture produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance or mixture.

(b) "EPA" means the U.S. Environmental Protection Agency.

(c) "Import in bulk form" means to import a chemical substance (other than as part of a mixture or article) in any quantity, in cans, bottles, drums, barrels, packages, tanks, bags, or other containers used for purposes of transportation or containment, if the chemical substance has an end use or commercial purpose separate from the container.

(d) "Importer" means anyone who imports a chemical substance, including a chemical substance as part of a mixture or article, into the customs territory of the U.S. and includes the person liable for the payment of any duties on the merchandise, or an authorized agent on his behalf. Importer also includes, as appropriate:

(1) The consignee.

(2) The importer of record.

(3) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(4) The transferee, if the right to withdraw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144. For the purposes of this definition, the customs territory of the U.S. consists of the 50 states, Puerto Rico, and the District of Columbia.

(e) "Impurity" means a chemical substance unintentionally present with another chemical substance or mixture.

(f) "Intermediate" means any chemical substance that is consumed, in whole or in part, in chemical reactions used for the intentional manufacture of

other chemical substances or mixtures, or that is intentionally present for the purpose of altering the rates of such chemical reactions. (See also paragraph (j) of this section.)

(g) "Known to or reasonably ascertainable by" means all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know, or could obtain without unreasonable burden.

(h) "Manufacture for commercial purposes" means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture:

(1) For commercial distribution, including for test marketing.

(2) For use by the manufacturer, including use for product research and development, or as an intermediate.

Manufacture for commercial purposes also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including byproducts and coproducts that are separated from that other substance or mixture, and impurities that remain in that substance or mixture. Byproducts and impurities may not in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical produced for a commercial purpose.

(i) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that "mixture" does include (A) any combination which occurs, in whole or in part, as a result of a chemical reaction if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined, and if all of the chemical substances comprising the combination are included in the EPA, TSCA Chemical Substance Inventory after the effective date of the premanufacture notification requirement under 40 CFR Part 720, and (B) hydrates of a chemical substance or hydrated ions formed by association of a chemical substance with water. The term mixture includes alloys, inorganic glasses, ceramics, frits, and cements, including Portland cement.

(j) "Non-isolated intermediate" means any intermediate that is not intentionally removed from the equipment in which it is manufactured, including the reaction vessel in which it is manufactured, equipment which is ancillary to the reaction vessel, and any equipment through which the substance passes during a continuous flow process, but not including tanks or other vessels in which the substance is stored after its manufacture. (See also paragraph (f) of this section.)

(k) "Owned or controlled by the parent company" means the parent owns or controls 50 percent or more of the other company's voting stock or other equity rights, or has the power to control the management and policies of the other company.

(l) "Person" means any natural person, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal government.

(m) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(n) "Site" means a contiguous property unit. Property divided only by a public right-of-way shall be considered one site. There may be more than one manufacturing plant on a single site.

(o) "Test marketing" means distributing in commerce a limited amount of a chemical substance or mixture, or article containing such substance or mixture, to a defined number of potential customers, during a predetermined testing period, to explore market capability prior to broader distribution in commerce.

(p) "TSCA" means the Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

§ 712.5 Method of identification of substances for reporting purposes.

(a) *Report on TSCA-regulable quantities.* Unless specifically otherwise required, respondents must report only about quantities of a chemical that is defined as a chemical substance under TSCA section 3(2).

(b) *Chemicals from natural sources.* A manufacturer of a chemical substance which is extracted from an ore, from oil, or from any other natural source must report only about the manufacturing steps for, and the uses of, that chemical, not about production of the natural source material or other crude precursors derived from the natural source material.

For example, persons who manufacture a chemical substance such as "sweetened naphtha, 64741-87-3," but do not refine the naphtha to produce "hexane, 110-54-3" would not report on hexane. Only the production of "hexane" as an isolated product must be reported—not previous production of more crude, complex substances such as naphtha from which hexane is extracted. Thus, persons who produce crude oil, ores, and other crude natural materials, but do not carry them through further manufacturing steps that produce a listed chemical have no reporting responsibilities under this Part. Note, however, that any method of extraction, refinement, or purification of a listed chemical substance is considered to be manufacturing for the purposes of this rule.

(c) *Chemical substances as marketed.* This Part requires reporting about chemical substances as they are marketed or used in practice. The following preparations of a chemical substance must be reported as the substance itself, not as a mixture, since these preparations are regarded as the substance in practice.

(1) The chemical substance in aqueous solution.

(2) The chemical substance containing an additive (such as a stabilizer or other chemical) to maintain the integrity or physical form of the substance.

(3) The chemical substance in any grade of purity.

§ 712.7 Report of readily obtainable information for Subparts B and C.

TSCA section 8(a) authorizes EPA to require persons to report information that is known to or reasonably ascertainable by them. For purposes of Subparts B and C, however, a lesser standard applies. Companies must report information that is readily obtainable by management and supervisory employees responsible for manufacturing, processing, distributing, technical services, and marketing. Extensive file searches are not required.

§ 712.15 Confidentiality.

(a) Any person submitting information under this Part may assert business confidentiality claims for the information as described in the pertinent reporting form and its instructions. Any information covered by a claim will be disclosed by EPA only as provided in the procedures set forth at 40 CFR Part 2.

(b) Persons must certify to the validity of a claim of confidentiality they make for information reported under this Part, as specified on the reporting form.

(c) If no claim accompanies the information at the time it is submitted to EPA or if certification as to the claim is not made on the reporting form, EPA may place the information in an open file available to the public without further notice to the submitter.

Subpart B—Manufacturers Reporting—Preliminary Assessment Information

§ 712.20 Manufacturers and importers who must report.

Except as described in § 712.25, at the time a chemical substance is listed in § 712.30, the following persons must submit the "Manufacturer's Report—Preliminary Assessment Information" (as described in § 712.28) for each plant site at which they manufactured or imported the chemical substance during the reporting period specified in § 712.30:

(a) Persons who manufactured one or more of the chemical substances listed in § 712.30 for commercial purposes.

(b) Persons who imported in bulk form one or more of the chemical substances listed in § 712.30 for commercial purposes.

§ 712.25 Exempt manufacturers and importers.

(a) Persons who manufactured or imported the chemical substance during the reporting period, solely for purposes of scientific experimentation, analysis, or research, including research or analysis for product development, are not subject to reporting under § 712.20.

(b) Persons who, during the reporting period, manufactured or imported fewer than 500 kilograms (1100 pounds) of the chemical substance at a single plant site are not subject to reporting for that site under § 712.20.

(c) Persons who qualify as small manufacturers or importers in respect to a specific chemical substance listed in § 712.30 are exempt. However, this exemption does not apply with respect to any chemical in § 712.30 designated by an asterisk. A manufacturer is qualified as small and is exempt from submitting a report under this Subpart for a chemical substance manufactured at a particular plant site if both of the following criteria are met:

(1) Total annual sales taken together of all sites owned or controlled by the foreign or domestic parent company were below $30 million for the reporting period;

(2) Total production of the listed substance for the reporting period was below 45,000 kilograms (100,000 pounds) at the plant site.

(d) Persons are not subject to reporting under § 712.20 if they manufactured or imported the chemical substance during the reporting period only in the following forms:

(1) As a byproduct that was not used or sold or that was formed as described in 40 CFR 710.4(d) (3) through (7).

(2) As a non-isolated interimediate.

(3) As an impurity.

§ 712.28 Form and instructions.

(a) Manufacturers and importers subject to this Subpart must submit a single EPA Form No. 7710–35, "Manufacturer's Report—Preliminary Assessment Information," for each plant site manufacturing or importing a chemical substance listed in § 712.30.

(b) Reporting companies may submit their reports through individual plant sites or company headquarters as they choose. A separate form must be submitted for each plant site manufacturing the chemical substance.

(c) Forms must be sent to: Document Control Officer, Office of Pesticides and Toxic Substances, Environmental Protection Agency, P.O. Box 2080, Rockville, MD 20852.

(d) Instructions and a facsimile of the form are as follows:

BILLING CODE 6560-50-M

INSTRUCTIONS FOR MANUFACTURER'S REPORT FORM PRELIMINARY ASSESSMENT INFORMATION

What chemicals to report – This form applies to chemical substances that are listed in 40 CFR 712.30.

Reporting period – Enter the months and years beginning and ending the 12-month period for which you report. This reporting period is listed with the chemical substance in 40 CFR 712.30.

Who must report – Manufacturers and importers must report. See 40 CFR 712.25 for exemptions from reporting.

How many forms to complete – For each chemical, complete a separate form for each plant site that manufactured the chemical.

If a site manufactured and imported the chemical, report both manufacture and import data for the site on a single form.

A company that imported the chemical, but did not process the imported quantity or manufacture an additional quantity, may submit a separate form for each import site or may submit a single form with the total data for all import sites.

Who may submit forms – Companies may choose to complete and submit forms to EPA from each plant site directly, or through company headquarters.

Retention of forms – You should keep a copy of each completed form. Refer to the preprinted Control Number (shown in the upper right corner on the front of the form) when communicating with EPA.

EPA assistance – For further information or to obtain copies of the Manufacturer's Report form, contact:

Industry Assistance Office (TS-799)
Office of Pesticides and Toxic Substances
Environmental Protection Agency
401 M Street, SW.
Washington, D.C. 20460
Toll free: (800) 424–9065
In Washington, D.C.: 554–1404
Outside the USA: Operator (202) 554–1404

I. CERTIFICATION

Technical certification – Certify the technical accuracy of data you report on the form by signing and dating the Technical Certification Statement. Print or type the name and title of the person who signs this statement.

Confidentiality certification – You may claim information confidential by marking appropriate boxes in sections III and IV. If you claim any information confidential, you must certify that the Confidentiality Statements are true for all information claimed confidential on the form. Do this by signing and dating the Confidentiality Certification Statement. Print or type the name and title of the person who signs this statement.

II. CHEMICAL IDENTIFICATION *(Complete A or B)*

Item A – If you are reporting on a chemical that has its CAS Number and Chemical Name listed in 40 CFR 712.30, enter the CAS Number and first fifteen (15) characters of the listed Chemical Name.

Enter N/A in section II, part B, in the spaces for Category Name and Inventory Form C Number.

Item B – If you are reporting a confidential chemical that is in a category listed in 40 CFR 712.30, enter the Category Name as listed, and enter the number of the Inventory Reporting Form C on which you reported the chemical for the TSCA Inventory. (If the Inventory Form C Number is not available, contact the Industry Assistance Office.)

In section II, part A, enter N/A in the spaces for CAS Number and Chemical Name.

III. RESPONDENT IDENTIFICATION

Confidentiality – Mark this box to claim confidential all Respondent Identification in section III. Note that you may not claim your identity confidential if you reported this chemical for the Inventory and did not claim your identity confidential at that time.

Item A – Enter the name, physical location address, and Dun and Bradstreet number of the plant site for which the data are reported.

If your company imported but did not further process or manufacture additional chemicals, and you choose to submit data for all import sites on a single form, enter N/A.

If the plant site does not have a Dun and Bradstreet number, enter N/A in that space.

Item B – Mark the appropriate box to show whether the plant site or corporate headquarters is submitting this form. Enter the corresponding name and mailing address.

If corporate headquarters submits this form, enter its Dun and Bradstreet number. If it does not have a Dun and Bradstreet number, or if the plant site submits this form, enter N/A in the space for Dun and Bradstreet number.

EPA will send all correspondence regarding the form to this address.

Item C – Enter the name, title, and telephone number (including area code) of a person for EPA to contact if there are questions about data reported on this form.

Item D – EPA will acknowledge receipt of the form to the person named in this item.

IV. PRELIMINARY ASSESSMENT INFORMATION

TSCA Regulable Quantities — Except under items 4 and 5, do not report any quantity of chemical substance that is manufactured or processed solely for use as: a pesticide; tobacco or any tobacco product; any source material, special nuclear material, or byproduct material (as terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act); firearms or ammunition; or food, food additives, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug and Cosmetic Act). The above are not TSCA regulable.

Some chemical substances are manufactured for both TSCA and non-TSCA regulable purposes. Thus, under items 4 and 5, include total production of the chemical stream for both TSCA and non-TSCA regulable quantities.

PART A: PLANT SITE ACTIVITIES

Accuracy — For each item, provide numbers that represent your best estimates based on readily obtainable data.

Item 1 — Enter the total quantity of the chemical substance imported in bulk during the reporting period. If you import, but do not further process the imported quantity or manufacture an additional quantity, answer this item and part B only.

Item 2 — Enter the quantity of chemical domestically manufactured during the reporting period, not counting the losses reported in item 3a.

Items 3a–3d — In 3a, report the total quantity lost in manufacture of the substance during the reporting period. Report only routine losses. Do not report unusual spills or accidents. In calculating estimates for quantities not recovered you may: (1) use measured losses, if available, or emission factors and other calculated releases from individual sources; or, (2) if these are not available, or only account for a portion of the total loss, you may make a simple mass balance estimate of expected yield minus actual yield, where actual yield is the value reported in item 2. This quantity in 3a should then be broken down into the three categories below (i.e., 3b + 3c + 3d = 3a). Specify the accuracy you report for 3b, 3c, and 3d, e.g., 1000 kg ± 30%.

3b. Quantity lost to the environment — This covers fugitive emissions to the atmosphere and other losses not described in 3c and 3d.

3c. Quantity in wastes treated to destroy the chemical.

3d. Quantity in wastes not treated to destroy the chemical — This includes, for example, any quantity disposed of in any landfill, surface impoundment, municipal sewage, or storage.

Items 4–7 — Items 4–7 in part A require you to describe the manufacturing process and your use of the chemical in terms of the number of workers and quantity of substance associated with three process categories. Three process categories are described below, followed by instructions for calculating quantities, worker-hours, and number of workers. Additional instructions concerning items 4 through 7 are also listed.

PROCESS CATEGORIES

Enclosed Process — The process is designed and operated so that there is no intentional release of the chemical. In this process category, only fugitive or inadvertent releases occur and special measures are taken to prevent worker exposure and environmental contamination. "Special measures" refer to procedures and equipment that are monitored and used to prevent worker exposure, and scrubbers and other recovery equipment employed to prevent environmental release. Equipment with emergency pressure relief venting would be allowed in this category; routine venting would not. With regard to handling the manufactured chemical, persons who handle closed packages containing the material would be counted under "enclosed process." Persons who package or transfer the unpackaged chemical would be counted in one of the following categories.

Controlled Release Process — The process is operated in a controlled manner to minimize release of the chemical into the workplace. Releases should generally be within prescribed limits. These limits may be dictated by government regulations or by company guidelines. If the chemical is vented outside the plant, the process is a "controlled release" process. Do not count general space ventilation fans.

Open Process — The chemical is routinely in direct contact with the atmosphere (workplace or outside the plant) and no measures are taken to prevent release. For example, reaction vessels are open vats, the chemical is transported or stored in open containers, or the chemical is freely vented into the workplace atmosphere.

QUANTITIES

Process Category — Enter the greatest quantity that is processed in each process category. If there is more than one process stream, calculate each stream separately and then add the values for each process category. If a quantity of the chemical passes in series through an enclosed process and then passes through an open process, the same quantity would be reported twice, once under each process category. (The sum of these quantities may be greater than 100% of the total quantity manufactured.)

Example 1 — A company manufactures technical grade chemical x in four steps.

350,000 kg ⟶	350,000 kg ⟶	350,000 kg ⟶	200,000 kg
Open	Enclosed	Open	Enclosed

The company would report:

Enclosed	350,000 kg
Controlled release	0
Open	350,000 kg

Example 2 — A company produces the same chemical in a reagent and technical grade with the following steps.

Technical Grade Process:

350,000 kg ⟶	350,000 kg ⟶	350,000 kg ⟶	200,000 kg
Open	Enclosed	Open	Enclosed

Reagent Grade Process:

650,000 kg ⟶	500,000 kg ⟶	500,000 kg ⟶	400,000 kg
Controlled Release	Controlled Release	Open	Open

The company would report:

Enclosed	350,000 kg
Controlled release	650,000 kg
Open	850,000 kg

(The open process amount is the total of the maximum quantity in the open process category from each grade.)

Total Quantity – For items 5, 6, and 7, enter the total quantity processed in all process categories. (This total may be less than the sum of the quantities reported in individual process categories.)

WORKER-HOURS

Worker-hours may be calculated for a given process category by multiplying the average number of full-time employees needed for the operation by the number of hours operating annually. Alternatively, worker-hour information may be taken from preexisting information sources such as resource planning or budget figures.

WORKERS

In reporting number of workers for each process category, count the total number of persons directly involved in manufacturing, processing, and handling the chemical during the reporting period. Count maintenance or inspection workers only if they work with the process on a routine basis. Do not count administrative staff.

Three process categories are described in the form: enclosed, controlled release, and open. A worker should be counted as working with only one process category. If he operates several process types, count him under the one with which he spends the most time. If he spends an equal amount of time with several, count him under the most open process.

Example 3 – A company manufactured 1,000,000 kg of a chemical substance in 1980. It manufactured the chemical for all twelve months of the year and did so in an enclosed process.

In order to run the production line, ten (10) workers were present working 40 hour weeks; thus over the course of the year 20,800 worker-hours were used to run the production line.

Over the course of the year, twelve (12) different workers worked on the production of the chemical.

The form would then be filled out as follows:

Process category	Quantity (kg)	Worker-hours	Total workers
Open	0	0	0
Controlled release	0	0	0
Enclosed	1,000,000 kg	20,800	12

Example 4 – A company manufactured 1,000,000 kg of a chemical substance in 1980. It manufactured the chemical for the entire year in a 24 hour/day process consisting of three steps in the open, controlled release, and open process categories. The production line was shut down for maintenance for 2 weeks of the year. The production line had three 8-hour shifts. Each shift in step 1 required 5 workers, while 7 and 10 workers were needed per shift in steps 2 and 3, respectively. The total worker-hours required for each step follows:

Process category	(Shifts/day x hours/shift x workers x days/week x weeks/year)	Workers-hours
Open (Step 1)	(3 x 8 x 5 x 7 x 50)	42,000
Controlled (Step 2)	(3 x 8 x 7 x 7 x 50)	58,800
Open (Step 3)	(3 x 8 x 10 x 7 x 50)	84,000

Analysis of the personnel records showed that a total of 75 individuals worked on the production of the chemical during 1980. After examining the personnel records, the company was able to fill in the following table:

Process category	Total workers
Open (Step 1)	21
Controlled (Step 2)	19
Open (Step 3)	35
	75

Note that workers are not double counted or "split" even though some jobs may require moving from one step of the process to another step of the same process. An employee working on both step 1 and step 2 is counted only in step 1 if he/she spends most of his time at that step. After adding together steps in the same process category, the company would report as follows:

Process category	Quantity (kg)	Worker-hours	Total workers
Open	1,000,000	126,000	56
Controlled release	1,000,000	58,800	19
Enclosed	0	0	0

Item 4 – This item applies to the manufacture of the chemical substance and includes all steps to ready the chemical for further processing or use.

Item 5 – This item applies to use of the chemical at your plant site as a reactant in the manufacture of another chemical substance, where the molecular structure of the chemical is altered by breaking chemical bonds or making new chemical bonds between the original substance and some other substance. Report on all processing up to and including the actual reaction step and any ancillary steps which recycle unreacted chemicals back to the reactor vessel. Do not report on subsequent activities in this question.

Item 6 – Report the quantity of the chemical substance that you use on site. Examples include cleaning solvents, dielectric fluids, emulsifiers, and lubricants. Do not include any quantity that you react to make a product.

Item 7 – Report the quantity of the chemical substance that you process at the manufacturing site into products for on site use or sale. (Note that this does not include manufacture of the chemical substance; this is reported in item 4 above.) This item does include the quantity of chemical substance that you incorporate in a mixture or article. Report the steps up to and including incorporation of the chemical into an article; do not include any further processing of the article.

Item 8 – Report the quantity of the chemical substance that you prepare for commercial distribution in each of the product types in 8a to 8g. Do not include any quantity of chemical substance that your customers will further process. This will be reported in item 9.

In items 8a to 8f, report the quantity of the chemical substance in products that are for domestic use. If you are uncertain about whether your products are for domestic or foreign use, report them as domestic.

The products are divided into industrial and consumer products. "Industrial" means the manufacturing and service industries covered by the Standard Industrial Codes. Products meant to be used primarily by the general population are considered to be "consumer" products. The following definition from the Consumer Product Safety Act can be used as a guide (15 U.S.C. 2052(a)(1)): "The term 'consumer product' means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in

recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise." If you are uncertain about whether your products are industrial or consumer, report them as consumer.

Three types of industrial and consumer product types are described below.

"Chemical substance or mixture" means a chemical, or mixture containing the chemical, that is used directly by the persons using the product, e.g., cleaners, paints, inks, deodorizers, solvents, etc. This includes chemicals or mixtures in containers or other articles whose purpose is to release the chemical (e.g., cans of spray paint, ink pens, and other applicators).

"Articles or products with no release" are articles constructed to prevent human exposure to or release to the environment of the chemical substance during normal use and storage (e.g., chemical coatings on internal components, and chemicals inside sealed articles as in thermometers and batteries).

"Articles or products with some release" are articles whose material components are made of chemicals which come in direct contact with persons using the article, the atmosphere, land, or water; e.g., exposure can come from leaching, evaporation, or surface contact. This includes such articles as plastic containers, chemically treated textiles, printed paper, coated appliances, etc. If the chemical itself is sold in a bottle or other container it should be reported under "Chemical substance or mixture," not as an article. Only the container itself is an article for purposes of this form; the substance it contains is not a component of an article.

In item 8g, report the quantity of chemical substance that you export directly either as the chemical or contained in mixtures or articles.

Item 9 – Estimate the quantity of the chemical substance that your customers process for each of the uses listed in items 9a to 9h. (Do not include the quantity of chemical substances that your customers will use without further processing; that quantity should be reported in item 8a or 8d.)

For items 9a to 9g, follow the same directions as for items 8a to 8g.

For item 9h, report the quantity of chemical substance that your customers will react to make products that do not contain the chemical substance itself.

For item 9i, report the quantity of chemical substance for which your customers' uses are unknown.

Report your best estimate for items 9a to 9h within ±50%. If you cannot estimate an item to this degree of accuracy, include the quantity in item 9i. You may report "unknown" if the data would reveal information subject to a confidentiality agreement between you and your customers.

Item 10 – If you report your customers' uses as unknown (item 9i above) for more than 20% of the total quantity that you manufacture and import (items 1 and 2 above) list the names under which you distribute the chemical substance.

This item will allow EPA, if necessary, to find out about chemical uses you have reported as "unknown" by requiring processors of your products to report directly to us.

Item 11 – This item addresses your general knowledge of the process types your customers use to process the chemical. Estimate the quantity of the chemical that your customers process in each of the three process categories. Specify "unknown" if you do not know to within ±50%.

IMPORTANT: Before completing this form, please read the accompanying instructions carefully. O.M.B. No. 2000-0420: Approval Expires 3/31/84

EPA U.S. ENVIRONMENTAL PROTECTION AGENCY
401 M Street, S.W.
Washington, D.C. 20460

MANUFACTURER'S REPORT PRELIMINARY ASSESSMENT INFORMATION

This information is required under the authority of Section 8(a), Toxic Substances Control Act, 15 U.S.C. 2607.

When completed send this form to:
Document Control Officer
Office of Pesticides and Toxic Substances
U.S.E.P.A.
P.O. Box 2080
Rockville, Md. 20852

CONTROL NUMBER

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FROM: Mo. | Yr. | TO: Mo. | Yr.

Section I — CERTIFICATION

TECHNICAL CERTIFICATION STATEMENT

I hereby certify that, to the best of my knowledge and belief, all information entered on this form is complete and accurate. I agree to permit access to, and the copying of records by, a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here.

Signature | Date

Name and title — *Please print or type*

CONCERNING EPA DISCLOSURE OF INFORMATION

Any person who submits information to EPA under the Preliminary Assessment Information Rule (40 CFR 712) should be aware of EPA regulations (40 CFR Part 2) which govern disclosure of such information. Those regulations provide that such person may, if he or she desires, assert a confidentiality claim covering part or all of the information submitted. Information covered by such a claim will be publicly disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. However, if no such claim accompanies the information when it is received, EPA may make that information public without notifying the submitter.

CONFIDENTIALITY STATEMENTS

Information disclosed to EPA on this form may be claimed confidential by marking the appropriate boxes below. The person signing the Confidentiality Certification Statement attests to the truth of the following four statements concerning all information that is claimed confidential. Note that chemical substance identity may not be claimed confidential for this rule.

1. My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.
2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).
3. The information is not publicly available elsewhere.
4. Disclosure of the information would cause substantial harm to our competitive position.

CONFIDENTIALITY CERTIFICATION STATEMENT

I hereby certify that the Confidentiality Statements on this form are true as to that information below for which I have asserted a confidentiality claim.

Signature | Date

Name and title — *Please print or type*

Section II — CHEMICAL IDENTIFICATION

Part A

CAS No. | | | | | — | | | — | |

Chemical name (first 15 characters)

Part B

Category name (first 15 characters)

Inventory Form C number

Section III — RESPONDENT IDENTIFICATION

☐ *MARK THIS BOX TO CLAIM THIS SECTION CONFIDENTIAL*

Part A — Plant Site — Physical location

Name

Number and street

City

County

State | ZIP code

Dun and Bradstreet number

| | | — | | | | — | | | | | |

Part B — Mailing Address of:

☐ Corporate Headquarters ☐ Plant Site

Name

Number and street

City

State | ZIP code

Dun and Bradstreet number (for corporate headquarters only)

| | | — | | | | — | | | | | |

Part C — Technical Contact

Name and title

Telephone *(Area code/number)*

☐ At headquarters

☐ At plant site

Part D — Acknowledgement

EPA will send acknowledgement to — *Name and title*

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Section IV — PRELIMINARY ASSESSMENT INFORMATION

NOTE Mark the box to the left of any item below to claim the answer to the item as confidential. Report all quantities in kilograms (1 kilogram = 2.2 pounds). Enter N/A for any item that does not apply to you; do not leave any blanks.

Part A — Plant Site Activities — *Information in part A must be your best estimate from readily obtainable data. For items 3b, 3c, and 3d, specify the accuracy of your answers.*

☐ 1. Total quantity imported	kg	☐ 2. Quantity manufactured for sale or use	kg
☐ 3 a. Quantity lost during manufacture *(3b + 3c + 3d must equal 3a)*	kg	3 c. Quantity in wastes treated to destroy the chemical	kg ± %
3 b. Quantity lost to the environment	kg ± %	3 d. Quantity in wastes not treated to destroy the chemical	kg ± %

Activity (1)	Process category (2)	Quantity (kilograms) (3)	Total worker-hours (4)	Total workers (5)
☐ 4. Manufacture of the chemical	a. Enclosed			
	b. Controlled release			
	c. Open			
☐ 5. On-site use as reactant	a. Enclosed			
	b. Controlled release			
Total Quantity _____ kg	c. Open			
☐ 6. On-site nonreactant use of the chemical substance	a. Enclosed			
	b. Controlled release			
Total Quantity _____ kg	c. Open			
☐ 7. On-site preparation of products	a. Enclosed			
	b. Controlled release			
Total Quantity _____ kg	c. Open			

☐ 8. MANUFACTURER'S PRODUCTS — Report the quantity of the chemical substance that you prepare for each of the following.

INDUSTRIAL PRODUCTS (domestic)	a. Chemical or mixture	kg	**CONSUMER PRODUCTS (domestic)**	d. Chemical or mixture	kg
	b. Article with some release	kg		e. Article with some release	kg
	c. Article with no release	kg		f. Article with no release	kg
g. Products for export →		kg			

Part B — Chemical Substance Processing by Customers — *Information in part B must be accurate to within ± 50%.*

☐ 9. CUSTOMERS' USES AND PRODUCTS — Estimate the quantity of the chemical substance that your customers use or prepare for each of the following.

INDUSTRIAL PRODUCTS (domestic)	a. Chemical or mixture	kg	**CONSUMER PRODUCTS (domestic)**	d. Chemical or mixture	kg
	b. Article with some release	kg		e. Article with some release	kg
	c. Article with no release	kg		f. Article with no release	kg
g. Products for export →		kg			
h. Quantity of chemical consumed as reactant →		kg			
i. Unknown customer uses →		kg			

☐ 10. MARKET NAMES — If you report your customers' uses as unknown (9i above) for more than 20% of the total quantity of chemical substance that you manufacture and import (20% of items 1 and 2 above), list the market names under which you distribute the chemical. (If you need more space, attach an additional sheet.)

a.	c.
b.	d.

☐ 11. CUSTOMERS' PROCESS CATEGORIES — Based on your knowledge of general industry practices, estimate the quantity of chemical substance that you sell to customers as the chemical and that your customers further process in each of the following categories.

a. Enclosed processes	kg	c. Open processes	kg
b. Controlled release processes	kg	d. Unknown	kg

EPA Form 7710-35

BILLING CODE 6560-50-C

§ 712.30 Chemical lists and reporting periods.

(a) Persons subject to this Subpart must submit a Preliminary Assessment Information Manufacturer's Report for each chemical substance or designated mixture listed below. The information in each Manufacturer's Report for a given substance or mixture must cover the respondent's latest complete corporate fiscal year as of the effective date when the substance or mixture becomes subject to this Subpart. The effective date will be 30 days after the Office of Toxic Substances publishes a notice in the **Federal Register** making the substance or mixture subject to this subpart.

(b) Except as provided in paragraph (c) of this section, chemical substances and designated mixtures will be added after a notice of proposed amendment of this Subpart is published in the **Federal Register**. There will be a 30 day public comment period on each notice; after consideration of the comments, a final amendment will identify the substances and mixtures added.

(c) [Reserved]

(d) A Preliminary Assessment Information Manufacturer's Report must be submitted by November 19, 1982 for each chemical substance listed below.

CAS No., Chemical Name

64-67-5 Sulfuric acid, diethyl ester
71-55-6 Ethane, 1,1,1-trichloro-
72-57-1 2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl[1,1'-biphenyl]-4,4'-diyl)bis(azo)]bis[5-amino-4-hydroxy-, tetrasodium salt
74-87-3 Methane, chloro-
75-05-8 Acetonitrile
75-09-2 Methane, dichloro-
75-12-7 Formamide
75-21-8 Oxirane
75-38-7 Ethene, 1,1-difluoro-
75-56-9 Oxirane, methyl-
77-47-4 1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
77-78-1 Sulfuric acid, dimethyl ester
77-83-8 Oxiranecarboxylic acid, 3-methyl-3-phenyl-, ethyl ester
78-30-8 Phosphoric acid, tris(2-methylphenyl) ester
78-32-0 Phosphoric acid, tris(4-methylphenyl) ester
78-33-1 Phenol, 4-(1,1-dimethylethyl)-, phosphate (3:1)
78-59-1 2-Cyclohexen-1-one, 3,5,5-trimethyl-
78-87-5 Propane, 1,2-dichloro-
78-93-3 2-Butanone
79-06-1 2-Propenamide
80-62-6 2-Propenoic acid, 2-methyl-, methyl ester
81-21-0 2,4-Methano-2H-indeno[1,2-b:5,6-b']bisoxirene, octahydro-
84-61-7 1,2-Benzenedicarboxylic acid, dicyclohexyl ester
84-66-2 1,2-Benzenedicarboxylic acid, diethyl ester
84-74-2 1,2-Benzenedicarboxylic acid, dibutyl ester
85-68-7 1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester
85-70-1 1,2-Benzenedicarboxylic acid, 2-butoxy-2-oxoethyl butyl ester
87-61-6 Benzene, 1,2,3-trichloro-
87-68-3 1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
88-74-4 Benzenamine, 2-nitro-
89-63-4 Benzenamine, 4-chloro-2-nitro-
90-13-1 Naphthalene, 1-chloro-
92-49-9 Benzenamine, N-(2-chloroethyl)-N-ethyl-
92-52-4 1,1'-Biphenyl
95-39-6 2-Propenoic acid, bicyclo[2.2.1]hept-5-en-2-ylmethyl ester
95-47-6 Benzene, 1,2-dimethyl-
95-48-7 Phenol, 2-methyl-
95-49-8 Benzene, 1-chloro-2-methyl-
95-50-1 Benzene, 1,2-dichloro-
95-51-2 Benzenamine, 2-chloro-
95-54-5 1,2-Benzenediamine
95-63-6 Benzene, 1,2,4-trimethyl-
95-76-1 Benzenamine, 3,4-dichloro-
95-82-9 Benzenamine, 2,5-dichloro-
95-94-3 Benzene, 1,2,4,5-tetrachloro-
96-05-9 2-Propenoic acid, 2-methyl-, 2-propenyl ester
96-08-2 7-Oxabicyclo[4.1.0]heptane, 1-methyl-4-(2-methyloxiranyl)-
96-09-3 Oxirane, phenyl-
96-12-8 Propane, 1,2-dibromo-3-chloro-
96-33-3 2-Propenoic acid, methyl ester
97-02-9 Benzenamine, 2,4-dinitro-
97-63-2 2-Propenoic acid, 2-methyl-, ethyl ester
97-86-9 2-Propenoic acid, 2-methyl-, 2-methylpropyl ester
97-88-1 2-Propenoic acid, 2-methyl-, butyl ester
97-90-5 2-Propenoic acid, 2-methyl-, 1,2-ethanediyl ester
98-07-7 Benzene, (trichloromethyl)-
98-87-3 Benzene, (dichloromethyl)-
98-88-4 Benzoyl chloride
98-95-3 Benzene, nitro-
99-09-2 Benzenamine, 3-nitro-
99-30-9 Benzenamine, 2,6-dichloro-4-nitro-
99-56-9 1,2-Benzenediamine, 4-nitro-
100-01-6 Benzenamine, 4-nitro-
100-41-4 Benzene, ethyl-
100-42-5 Benzene, ethenyl-
100-44-7 Benzene, (chloromethyl)-
101-43-9 2-Propenoic acid, 2-methyl-, cyclohexyl ester
101-77-9 Benzenamine, 4,4'-methylenebis-
101-90-6 Oxirane, 2,2'-[1,3-phenylenebis(oxymethylene)]bis-
103-11-7 2-Propenoic acid, 2-ethylhexyl ester
103-71-9 Benzene, isocyanato-
105-16-8 2-Propenoic acid, 2-methyl-, 2-(diethylamino)ethyl ester
106-40-1 Benzenamine, 4-bromo-
106-42-3 Benzene, 1,4-dimethyl-
106-44-5 Phenol, 4-methyl-
106-46-7 Benzene, 1,4-dichloro-
106-47-8 Benzenamine, 4-chloro-
106-50-3 1,4-Benzenediamine
106-51-4 2,5-Cyclohexadiene-1,4-dione
106-63-8 2-Propenoic acid, 2-methylpropyl ester
106-71-8 2-Propenoic acid, 2-cyanoethyl ester
106-74-1 2-Propenoic acid, 2-ethoxyethyl ester
106-83-2 Oxiraneoctanoic acid, 3-octyl-, butyl ester
106-84-3 Oxiraneoctanoic acid, 3-octyl-, octyl ester
106-87-6 7-Oxabicyclo[4.1.0]heptane, 3-oxiranyl-
106-88-7 Oxirane, ethyl-
106-89-8 Oxirane, (chloromethyl)-
106-90-1 2-Propenoic acid, oxiranylmethyl ester
106-91-2 2-Propenoic acid, 2-methyl-, oxiranylmethyl ester
106-92-3 Oxirane, [(2-propenyloxy)methyl]-
108-10-1 2-Pentanone, 4-methyl-
108-31-6 2,5-Furandione
108-38-3 Benzene, 1,3-dimethyl-
108-39-4 Phenol, 3-methyl-
108-42-9 Benzenamine, 3-chloro-
108-45-2 1,3-Benzenediamine
108-70-3 Benzene, 1,3,5-trichloro-
108-88-3 Benzene, methyl-
108-90-7 Benzene, chloro-
108-94-1 Cyclohexanone
109-16-0 2-Propenoic acid, 2-methyl-, 1,2-ethanediylbis(oxy-2,1-ethanediyl) ester
110-86-1 Pyridine
111-40-0 1,2-Ethanediamine, N-(2-aminoethyl)-
114-49-8 Benzeneacetic acid, .alpha.-(hydroxymethyl)-, 9-methyl-3-oxa-9-azatricyclo[3.3.1.02,4]non-7-yl ester, hydrobromide, [7(S)-(1.alpha.,2.beta.,4.beta.,5.alpha.,7.beta.)]-
115-27-5 4,7-Methanoisobenzofuran-1,3-dione, 4,5,6,7,8,8-hexachloro-3a,4,7,7a-tetrahydro-
115-28-6 Bicyclo[2.2.1]hept-5-ene-2,3-dicarboxylic acid, 1,4,5,6,7,7-hexachloro-
115-86-6 Phosphoric acid, triphenyl ester
116-15-4 1-Propene, 1,1,2,3,3,3-hexafluoro-
117-81-7 1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester
117-84-0 1,2-Benzenedicarboxylic acid, dioctyl ester
118-79-6 Phenol, 2,4,6-tribromo-
119-06-2 1,2-Benzenedicarboxylic acid, ditridecyl ester
119-07-3 1,2-Benzenedicarboxylic acid, decyl octyl ester
120-82-1 Benzene, 1,2,4-trichloro-
121-39-1 Oxiranecarboxylic acid, 3-phenyl-, ethyl ester
121-45-9 Phosphorous acid, trimethyl ester
121-87-9 Benzenamine, 2-chloro-4-nitro-
122-07-6 Ethanamine, 2,2-dimethoxy-N-methyl-
122-60-1 Oxirane, (phenoxymethyl)-
123-31-9 1,4-Benzenediol
126-99-8 1,3-Butadiene, 2-chloro-
131-11-3 1,2-Benzenedicarboxylic acid, dimethyl ester
140-08-9 Ethanol, 2-chloro-, phosphite (3:1)
140-88-5 2-Propenoic acid, ethyl ester
141-32-2 2-Propenoic acid, butyl ester
141-38-8 Oxiraneoctanoic acid, 3-octyl-, 2-ethylhexyl ester
141-85-5 Benzenamine, 3-chloro-, hydrochloride
142-04-1 Benzenamine, hydrochloride
142-09-6 2-Propenoic acid, 2-methyl-, hexyl ester

142-90-5 2-Propenoic acid, 2-methyl-, dodecyl ester
145-73-3 7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
147-82-0 Benzenamine, 2,4,6-tribromo-
155-41-9 3-Oxa-9-azoniatricyclo[3.3.1.02,4]nonane, 7-(3-hydroxy-1-oxo-2-phenylpropoxy)-9,9-dimethyl-, bromide, [7(S)-(1.alpha.,2.beta.,4.beta.,5.alpha.,7.beta.)]-
285-67-6 6-Oxabicyclo[3.1.0]hexane
286-20-4 7-Oxabicyclo[4.1.0]heptane
428-59-1 Oxirane, trifluoro(trifluoromethyl)-
470-67-7 7-Oxabicyclo[2.2.1]heptane, 1-methyl-4-(1-methylethyl)-
496-72-0 1,2-Benzenediamine, 4-methyl-
534-15-6 Ethane, 1,1-dimethoxy-
541-73-1 Benzene, 1,3-dichloro-
554-00-7 Benzenamine, 2,4-dichloro-
556-52-5 Oxiranemethanol
593-60-2 Ethene, bromo-
603-35-0 Phosphine, triphenyl-
608-27-5 Benzenamine, 2,3-dichloro-
608-93-5 Benzene, pentachloro-
615-05-4 1,3-Benzenediamine, 4-methoxy-
624-18-0 1,4-Benzenediamine, dihydrochloride
626-43-7 Benzenamine, 3,5-dichloro-
632-79-1 1,3-Isobenzofurandione, 4,5,6,7-tetrabromo-
634-66-2 Benzene, 1,2,3,4-tetrachloro-
634-90-2 Benzene, 1,2,3,5-tetrachloro-
634-93-5 Benzenamine, 2,4,6-trichloro-
635-22-3 Benzenamine, 4-chloro-3-nitro-
688-84-6 2-Propenoic acid, 2-methyl-, 2-ethylhexyl ester
689-12-3 2-Propenoic acid, 1-methylethyl ester
818-61-1 2-Propenoic acid, 2-hydroxyethyl ester
823-40-5 1,3-Benzenediamine, 2-methyl-
827-94-1 Benzenamine, 2,6-dibromo-4-nitro-
868-77-9 2-Propenoic acid, 2-methyl-, 2-hydroxyethyl ester
925-60-0 2-Propenoic acid, propyl ester
930-37-0 Oxirane, (methoxymethyl)-
1139-30-6 5-Oxatricyclo[8.2.0.04,6]dodecane, 4,12,12-trimethyl-9-methylene-, [1R-[1R*,4R*,6R*,10S*)]-
1241-94-7 Phosphoric acid, 2-ethylhexyl diphenyl ester
1309-64-4 Antimony oxide O3Sb2
1319-77-3 Phenol, methyl-
1321-64-8 Naphthalene, pentachloro-
1321-65-9 Naphthalene, trichloro-
1330-20-7 Benzene, dimethyl-
1330-61-6 2-Propenoic acid, isodecyl ester
1330-78-5 Phosphoric acid, tris(methylphenyl) ester
1335-87-1 Naphthalene, hexachloro-
1335-88-2 Naphthalene, tetrachloro-
1345-04-6 Antimony sulfide S3Sb2
1464-53-5 2,2'-Bioxirane
1663-39-4 2-Propenoic acid, 1,1-dimethylethyl ester
1817-73-8 Benzenamine, 2-bromo-4,6-dinitro-
1937-37-7 2,7-Naphthalenedisulfonic acid, 4-amino-3-[[4'-[(2,4-diaminophenyl)azo][1,1'-biphenyl]-4-yl]azo]-5-hydroxy-6-(phenylazo)-, disodium salt
2082-81-7 2-Propenoic acid, 2-methyl-, 1,4-butanediyl ester
2156-96-9 2-Propenoic acid, decyl ester
2210-28-8 2-Propenoic acid, 2-methyl-, propyl ester
2223-82-7 2-Propenoic acid, 2,2-dimethyl-1,3-propanediyl ester
2234-13-1 Naphthalene, octachloro-
2238-07-5 Oxirane, 2,2'-[oxybis(methylene)]bis-
2358-84-1 2-Propenoic acid, 2-methyl-, oxydi-2,1-ethanediyl ester
2425-79-8 Oxirane, 2,2'-[1,4-butanediylbis(oxymethylene)]bis-
2426-08-6 Oxirane, (butoxymethyl)-
2426-54-2 2-Propenoic acid, 2-(diethylamino)ethyl ester
2455-24-5 2-Propenoic acid, 2-methyl-, (tetrahydro-2-furanyl)methyl ester
2461-18-9 Oxirane, [(dodecyloxy)methyl]-
2499-95-8 2-Propenoic acid, hexyl ester
2528-36-1 Phosphoric acid, dibutyl phenyl ester
2530-85-0 2-Propenoic acid, 2-methyl-, 3-(trimethoxysilyl)propyl ester
2602-46-2 2,7-Naphthalenedisulfonic acid, 3,3'-[[1,1'-biphenyl]-4,4'-diylbis(azo)]bis[5-amino-4-hydroxy-, tetrasodium salt
2610-05-1 1,3-Naphthalenedisulfonic acid, 6,6'-[(3,3'-dimethoxy[1,1'-biphenyl]-4,4'-diyl)bis(azo)]bis[4-amino-5-hydroxy-, tetrasodium salt
2687-25-4 1,2-Benzenediamine, 3-methyl-
2855-19-8 Oxirane, decyl-
2867-47-2 2-Propenoic acid, 2-methyl-, 2-(dimethylamino)ethyl ester
2905-65-9 Benzoic acid, 3-chloro-, methyl ester
3076-04-8 2-Propenoic acid, tridecyl ester
3083-25-8 Oxirane, (2,2,2-trichloroethyl)-
3132-64-7 Oxirane, (bromomethyl)-
3194-55-6 Cyclododecane, 1,2,5,6,9,10-hexabromo-
3775-90-4 2-Propenoic acid, 2-methyl-, 2-[(1,1-dimethylethyl)amino]ethyl ester
3953-10-4 2-Propenoic acid, 2-ethylbutyl ester
4016-11-9 Oxirane, (ethoxymethyl)-
4016-14-2 Oxirane, [(1-methylethoxy)methyl]-
4835-11-4 1,6-Hexanediamine, N,N'-dibutyl-
5388-62-5 Benzenamine, 4-chloro-2,6-dinitro-
5455-98-1 1H-Isoindole-1,3(2H)-dione, 2-(oxiranylmethyl)-
5536-61-8 2-Propenoic acid, 2-methyl-, sodium salt
6033-05-2 Morphinan-3,6-diol, 7,8-didehydro-4,5-epoxy-17-methyl-(5.alpha.,6.alpha.)-, (Z)-9-octadecenoate (salt)
6106-46-3 Benzeneacetic acid, .alpha.-(hydroxymethyl)-, 9-methyl-3-oxa-9-azatricyclo[3.3.1.02,4]non-7-yl ester, [7(S)-(1.alpha.,2.beta.,4.beta.,5.alpha.,7.beta.)]-, compd. with methyl nitrate (1:1)
6106-81-6 Benzeneacetic acid, .alpha.-(hydroxymethyl)-, 9-methyl-3-oxa-9-azatricyclo[3.3.1.02,4]non-7-yl ester, N-oxide, hydrobromide, [7(S)-(1.alpha.,2.beta.,4.beta.,5.alpha.,7.beta.)]-
6283-25-6 Benzenamine, 2-chloro-5-nitro-
6369-59-1 1,4-Benzenediamine, 2-methyl-, sulfate
7320-37-8 Oxirane, tetradecyl-
7440-36-0 Antimony
7446-81-3 2-Propenoic acid, sodium salt
7534-94-3 2-Propenoic acid, 2-methyl-, 1,7,7-trimethylbicyclo[2.2.1]hept-2-yl ester, exo-
13048-33-4 2-Propenoic acid, 1,6-hexanediyl ester
13236-02-7 Oxirane, 2,2',2''-[1,2,3-propanetriyltris(oxymethylene)]tris-
13561-08-5 Oxirane, 2,2'-[[2-(oxiranylmethoxy)-1,3-phenylene]bis(methylene)]bis-
16110-89-7 Benzenesulfonic acid, 4-[(4,6-dichloro-1,3,5-triazin-2-yl)amino]-
16715-83-6 2-Propenoic acid, 2-methyl-, 2-[bis(1-methylethyl)amino]ethyl ester
17256-39-2 2-Propanamine, 1-chloro-N,N-dimethyl-, hydrochloride
17977-09-2 2-Propenoic acid, 2,2-dinitropropyl ester
24442-57-7 Ethanol, 1,2-dibromo-, acetate
25085-99-8 Oxirane, 2,2'-[(1-methylethylidene)bis(4,1-phenyleneoxymethylene)]bis-, homopolymer
25134-21-8 4,7-Methanoisobenzofuran-1,3-dione, 3a,4,7,7a-tetrahydromethyl-
25155-23-1 Phenol, dimethyl-, phosphate (3:1)
25550-14-5 Benzene, ethylmethyl-
25584-83-2 2-Propenoic acid, monoester with 1,2-propanediol
25637-99-4 Cyclododecane, hexabromo-
26444-49-5 Phosphoric acid, methylphenyl diphenyl ester
26447-14-3 Oxirane, [(methylphenoxy)methyl]-
26761-40-0 1,2-Benzenedicarboxylic acid, diisodecyl ester
26761-45-5 Neodecanoic acid, oxiranylmethyl ester
29761-21-5 Phosphoric acid, isodecyl diphenyl ester
32360-05-7 2-Propenoic acid, 2-methyl-, octadecyl ester
33791-58-1 2-Propenoic acid, 3a,4,5,6,7,7a-hexahydro-4,7-methano-1H-indenyl ester
37853-59-1 Benzene, 1,1'-[1,2-ethanediylbis(oxy)]bis[2,4,6-tribromo-
51363-64-5 Phosphoric acid, diisodecyl phenyl ester
56803-37-3 Phosphoric acid, (1,1-dimethylethyl)phenyl diphenyl ester
66108-37-0 Phosphoric acid, 2,2-bis(bromomethyl)-3-chloropropyl bis[2-chloro-1-(chloromethyl)ethyl] ester

(e) A Preliminary Assessment Information Manufacturer's Report must be submitted by November 19, 1982 on confidential chemicals in the following categories. A chemical is confidential only if EPA upheld the respondent's claim of confidential identity for the TSCA Chemical Substance Inventory:

Alkyl phthalates—all alkyl esters of 1,2-benzene dicarboxylic acid (orthophthalic acid).

Aryl phosphates—phosphate esters of phenol or of alkyl-substituted phenols. Tri-aryl and mixed alkyl and aryl esters are included but tri-alkyl esters are excluded.

Glycidol derivatives—C_2H_3O-CH_2O-R where R is an alkyl, alkenyl, alkynyl, aryl, or acyl group. Any substituent or functional group may be present on the alkyl, etc. groups.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPTS-82004G; 2039-6]

Chemical Information Rules; Preliminary Assessment Information; Opportunity for Additional Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing 50 additional chemicals for manufacturer reporting of preliminary assessment information. These are chemicals that the Interagency Testing Committee has designated as candidates for testing in its fifth through ninth reports. EPA is also proposing supplementary processor reporting on the 300 chemicals subject to manufacturer reporting, when customer use information is inadequate. In addition, EPA is proposing that certain chemicals automatically become subject to manufacturer reporting.

DATE: Written comments should be received on or before August 6, 1982.

ADDRESS: Written comments must be addressed to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460.

Comments should bear the identifying notation OPTS-82004G. All comments received, as well as the public records in this proceeding, will be available for public inspection in Room E-107 at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-511B, 401 M St., SW., Washington, DC 20460, Toll free: (800-424-9065), In Washington: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000-0420.

I. Introduction

EPA proposed a rule under section 8(a) of the Toxic Substances Control Act (TSCA) to obtain preliminary use and exposure data on about 2,300 chemical substances published in the **Federal Register** of February 29, 1980 (42 FR 13647). Under the final Manufacturers Reporting—Preliminary Assessment Information rule published elsewhere in this issue of the **Federal Register**, manufacturers must report on about 250 chemicals.

In the original proposal, chemical manufacturers were to submit information on their own and their customers' uses of the chemicals. If manufacturers did not provide the specified information on their customers' uses, manufacturers were also to submit lists of their customers so that EPA could contact the customers directly. The Agency received over 150 written comments on that proposal, most comments requesting that EPA eliminate the proposed requirement to submit customer lists. (Specific comments are addressed below, or in the document titled "Responses to Individual Comments" in the public record for this rulemaking.) While EPA does not agree with all the reasons presented against the customer list requirement, the Agency is persuaded that customer list reporting is not the best approach for this rule. Thus today's final rule deletes the proposed requirement for manufacturers to submit customer lists. Instead, the Agency here proposes an alternative approach to obtain data that manufacturers do not supply on their customers' uses.

In this notice, the Agency proposes to initiate a "second round" of "follow-up" reporting from processors by **Federal Register** notice. In this second round of reporting, processors would report on chemical substances that are marketed by manufacturers who reported unknown customer uses for more than 20 percent of the total quantity manufactured and imported. EPA would publish by **Federal Register** notice a list of the marketing names of these chemicals. Processors would then submit the shorter Processor's Follow-up Report—Preliminary Assessment Information on the listed chemicals. EPA would use the information reported by processors to complete assessments of the listed chemicals.

The final manufacturers rule also provides that chemicals in addition to the original 250 may become subject to manufacturer reporting after proposal and comment. Additional chemicals would be subject to processor reporting if manufacturers are unable to provide sufficient information. This notice proposes and solicits comment on the addition of about 50 chemicals for manufacturers reporting. These are chemicals that the Interagency Testing Committee has designated as candidates for testing in its fifth through ninth reports. Chemicals on the tenth list were previously proposed and appear on the final rule published today. EPA needs exposure data on these chemicals to determine whether test rules are warranted.

This notice also proposes that manufacturers automatically report on test candidates designated by ITC in the future. We are proposing to waive future comment periods for the individual ITC designates in order to collect needed exposure data in a more timely fashion.

II. Proposed Processor Reporting Requirements

A. New Approach to Processor Follow-Up

The Agency received many comments objecting to the originally proposed processor reporting requirements. Those proposed requirements have been deleted and are replaced by a new approach. This reproposed processor follow-up approach adopts suggestions made in comments on the February 29, 1980 proposal. Based on those comments, the Agency considers that this new approach has significant advantages over the customer list approach. In this new approach, EPA would require processor reporting for an individual chemical only after receipt and review of all manufacturers' forms on the chemical.

Commenters requested that EPA specify objective criteria to trigger processor follow-up, so that only a limited number of chemicals would be subject to processor reporting. The Chemical Manufacturers Association (CMA) suggested that the trigger should depend on the data provided by manufacturers and that EPA should require processor follow-up reporting if at least 10 million pounds of a chemical are produced for processing by firms other than the manufacturer's, and all manufacturers' reports on the chemical fail to provide use and exposure information on at least 30 percent of the portion of the chemical's output that is sold to processors.

Gaps in manufacturers' data should trigger processor reporting, but the Agency does not consider any single, absolute quantity of chemical to be an appropriate trigger because a quantity trigger cannot apply equally to all chemicals. For example, a million pounds is a very small portion of a chemical when total production is 20 billion, but a very large portion of a chemical when total production is 2 million.

EPA has not adopted the 30 percent suggestion because the Agency considers that the trigger should be based on the quantity of the total chemical manufactured and imported, rather than on only the portion

processed by customers, as CMA suggested.

EPA proposes to require processor reporting on a chemical when manufacturers report that customer uses are unknown for more than 20 percent of the total quantity manufactured and imported. That is, on the Manufacturer's Report form, EPA will compare the total for all manufacturers in questions 1 and 2 to the total for all manufacturers in item 9i, "unknown customer uses." If "unknown customer uses" represent more than 20 percent of the total domestically available, EPA will initiate processor reporting.

If at least 80 percent of the uses of a chemical are accounted for, then EPA will not require any processor reporting. Knowing 80 percent, we can project that the remaining 20 percent even if it is radically different will not significantly affect estimates of overall exposure for preliminary assessment purposes. For instance, if the exposure estimate for the known 80 percent were quantified as two on a scale of ten, and, in an hypothetical extreme case, the missing 20 percent would have scored an eight, the missing portion would change the average estimate only to three. With any known portion less than 80 percent, the confidence in this kind of projection would be correspondingly less. Likewise, using a figure greater than 80 percent would increase the confidence of the projection, but at the cost of an increase in amount of processor reporting.

Also as recommended by comments, when possible, EPA intends to publish trade names, rather than CAS numbers or chemical names, of the chemicals on which processors must report. EPA agrees with comments that this would better protect confidential information on composition of marketed chemical products, and that this approach will also communicate more to processors. Manufacturers should note, however, that if one manufacturer sells a chemical under a trade name, and another sells the same chemical under its chemical name, EPA would potentially be required to publish both the trade name and the chemical name for any follow-up reporting.

Comments also indicated that manfacturers would be more concerned about the confidentiality of ingredients in formulated mixtures sold under trade names, rather than confidentiality of chemical substances sold under trade names. Because this rule does not collect information on mixtures, publishing trade names should be a less serious confidentiality problem. EPA will publish the trade names in a **Federal Register** notice along with the reporting period for each chemical and the date by which processors must submit reports to EPA. Note that if a manufacturer did not mark "unknown" for more than 20 percent of the total quantity processed (question 9i on the manufacturer's form, published elsewhere in this issue of the **Federal Register** as 40 CFR Part 712, Subpart B), his trade names would not be published. It may also happen that we will not follow up on a manufacturer who does not account for 80 percent of his processed quantity. Follow-up wold not be needed if all other manufacturers' reports for the same substance account for 80 percent of the aggregate production.

The new approach has other advantages. Because direct processor reporting eliminates the need for manufacturers to assemble and submit customer lists, this approach would decrease the manufacturers' reporting burden. Follow-up processor reporting would reach customers who are processors, and would also reach processors who purchase chemicals from distributors. It would also avoid unnecessarily involving distributors who are direct customers of respondent manufacturers, and who do not further process the chemicals.

The requirements for processor reporting are described in more detail at III below and elsewhere in this issue of the **Federal Register**, and appear in § 712.40 of the proposed rule. Today's notice solicits additional comment on this proposed method of follow-up processor reporting. After reviewing comments to be received on this proposal, we will publish the final requirements for processor reporting in the **Federal Register.**

B. Who Must Report

In the proposed second round of reporting to collect information for preliminary assessment, persons who processed for commercial purposes certain chemical substances during the reporting year would submit the Processor's Follow-up Report—Preliminary Assessment Information. The chemicals would be listed in § 712.50 and published in a **Federal Register** notice, along with a date by which reports would be submitted to EPA. The proposed requirements for reporting are described in this section of the preamble and appear in § 712.48 of the rule. Processors who would be specifically exempted are described at III.B below.

Several comments requested clarification of the distinction between "processor," "user," and "distributor." The primary concern of the commenters was that the use of a chemical to manufacture a different chemical should not be considered processing. They suggested that if a person's activities change a listed chemical so that it no longer exists in its listed chemical form, the person is a "user" and consequently should not be subject to follow-up reporting.

The Agency disagrees with this interpretation. "Processing" includes any preparation of the chemical substance for distribution in commerce as part of a mixture, an article, or any product containing or composed of the chemical substance. Processing also includes the use of a chemical as a reactant or intermediate to produce another chemical substance. If a company only uses and discards the chemical at its plant site, the company is not a processor.

A processor is, among other things, one who prepares a chemical substance or mixture for distribution in commerce, after its manufacture, in the same or different form or physical state from that in which it was received by the processor (see TSCA section 3(10)). One who mixes, reacts, purifies, separates, repackages, or otherwise "prepares" a chemical substance or mixture for distribution in commerce is also a processor. A person who reacts a listed chemical substance to make another chemical for distribution in commerce has prepared that chemical substance for distribution in commerce in a form different from the one in which the person originally received it.

Furthermore, a person who reacts a chemical substance subject to this rule to produce another chemical substance is a manufacturer of a chemical substance and may be subject to a section 8(a) rule as a chemical manufacturer. TSCA secion 8(a) authorizes EPA to require manufacturers of a chemical substance to report on the chemicals they react in the manufacturing process. For example, EPA may need data on chemical A. Companies that react chemical A with chemical B to manufacture chemical C are manufacturers of chemical C. EPA may require them as chemical manufacturers to report data on chemicals A and B because they are reacted to manufacture chemical C.

"Users," who do not have to report for this rule, are persons who only use or discard a chemical substance or mixture. One who uses a listed chemical substance or mixture to maintain or repair his equipment, or to otherwise maintain the plant, would be a user only. For example, the purchaser of a piece of machinery who painted the

machinery for maintenance or repair would be a user of the paint. However, if the manufacturer of the same machinery painted it before selling the machinery, he would be a processor of the paint.

A "distributor" is one who "distributes in commerce" as defined in TSCA section 3(4). The terms "distribute" and "commerce" are both defined in the Act and do not need further definition. Distributors are not subject to reporting under this rule.

C. Processors Exempt From Reporting

The same exemptions that apply to manufacturers would also apply to processors. These exemptions are discussed more fully in the final manufacturer's reporting requirements published elsewhere in today's **Federal Register**. In general, the following processors would be exempt from reporting for a plant site in the following situations:

1. *Small processors.* This proposal complies with the Regulatory Flexibility Act by exempting small processors from reporting requirements, except in very limited cases. Processors would be "small" in respect to a listed chemical if total annual sales of the foreign or domestic parent company were below $30 million during the reporting period, and the plant site processed below 45,400 kilograms (100,000 pounds) of the listed chemical during the reporting period.

Small processors would be required to report only on a chemical subject to TSCA section 4, 5(b)(4), or 6 proposed or final rules, and only if the additional information from small processors is likely to have a significant effect on EPA decisions.

2. *Processors of small quantities.* No one would report on a chemical processed in quantities below 500 kilograms (1,100 pounds) per year at any plant site.

3. *Processors of substances in mixtures and articles.* Persons would not report on processing of substances already incorporated in mixtures or articles.

4. *Research and development.* Persons would not report on chemical processing that is solely for research and development or scientific analysis.

5. *Impurities and byproducts.* Persons would not report on listed chemicals that are processed solely because they are byproducts or impurities associated with processing of another chemical.

D. What Chemicals Must Be Reported

Processors would report on chemicals for which manufacturers could not provide sufficient customer use information. If the aggregate unaccounted for in all manufacturers' reports is greater than 20 percent of the total quantity manufactured and imported, the chemical would be subject to processor reporting. However, processors would report only on the trade names of manufacturers who did not account for 80 percent of their quantity manufactured and imported. This criterion allows us to extrapolate the uses of remaining quantities with sufficient confidence. EPA would issue a **Federal Register** notice containing the names under which these chemicals are sold. A processor of a listed chemical must report.

Persons who process the following preparations of a chemical substance must report:

1. The chemical substance in aqueous solution;

2. The chemical substance containing a small amount of an additive (such as a stabilizer or other chemical) to maintain the integrity or physical form of the substance;

3. The chemical substance in any grade of purity.

A chemical with additives is sold and used as the chemical substance. The Agency's purpose in asking about such products is to determine the use and potential exposure of that chemical substance. Congress recognized this need in the Conference Report on the Act: "Thus the definition of [the] term 'chemical substance' shall be applied to chemical substances as actually produced and marketed" H.R. Rep. No. 1679, 94th Cong., 2d Sess. 57 (1976) (Conference Report). Substances are rarely marketed in pure form and very often other chemicals are added to insure that the substance does not degrade during transport. In these cases it is the substance that is being marketed in the eyes of both seller and buyer. Under the definition of "mixture" in TSCA section 3(8), a substance with an additive would be a mixture. However, for this information collection to be effective in accounting for the processing of substances, substances with additives must be reported. Thus to the extent that the rule requires reporting on these "mixtures," the Administrator finds that it is necessary for the effective enforcement of TSCA.

As in the manufacturer's rule, processors would report only on chemicals processed for purposes regulable under TSCA.

E. Processor's Reporting Form

Processors would submit the Processor's Follow-up Report—Preliminary Assessment Information, EPA form Number 7710–35a. The proposed processor's form contains only the questions regarding customer use from Part B of the manufacturer's form. Thus, the processor's form itself is a modification of Part B of the manufacturer's form.

Processors would report their best estimate of the total quantity of chemical substance they processed in the reporting year, and the quantities processed for various product types. The estimates would be based on readily obtainable data. The proposed form also contains a question on the process categories used for the chemical. This information would be used to supplement data reported by manufacturers.

The same guidance and accuracy as described for manufacturers on Part A of their form is required of processors. See 40 CFR Part 712, Subpart B published elsewhere in this issue of the **Federal Register.**

F. When to Report

A processor would report data for the same period as reported by the manufacturer of the published trade name chemical. This period would be published in the **Federal Register** notice for each chemical on which processors must report. Processors would submit EPA form No. 7710–35a within 30 days of the effective date of the **Federal Register** notice announcing reporting. If a company must report on more than 15 chemicals listed in the notice, it may petition EPA for an extension of time as prescribed in § 712.45(g) of the rule.

III. Additional Chemicals Subject to the Rule

A. Automatic Reporting of Future ITC-Designates

We are proposing an amendment to Subpart B—Manufacturers Reporting Requirements that would automatically have manufacturers report on certain chemicals within 60 days. In the same manner as for chemicals previously listed in Subpart B, processors would be subject to reporting on these chemicals only if manufacturers failed to provide enough information.

The chemicals for which we proposed automatic reporting are chemical substances or designated mixtures that the Interagency Testing Committee (ITC) recommends for testing. Within one year after the ITC recommends a chemical for testing, EPA must initiate rulemaking to require testing under section 4 of TSCA or publish its reasons for not initiating rulemaking. Because of the short time allowed for this decision, the Agency must proceed as rapidly as

possible to gather available data on a chemical.

To decide within one year whether to propose a test rule, EPA must complete its preliminary exposure analysis of the chemical about four months, in most cases, after the ITC recommendation. If Preliminary Assessment Information reports are submitted automatically under this rule, EPA will have accurate and sufficiently complete exposure data from manufacturers within about three months after the ITC recommendation. This timetable assumes that we add the chemicals to § 712.30 by publishing a notice in the **Federal Register** within 10 days after the **Federal Register** publication of the ITC's recommendations. With an effective date 30 days after the date of the EPA **Federal Register** publication, and a due date 60 days after the effective date, EPA would have basic exposure data from manufacturers in about 100 days. This would allow the Agency about one month to complete the preliminary exposure analysis that would be based partially on the data. On the other hand, if the chemicals were proposed for comment, an additional two to three months, at a minimum, would be required to give time for the comment period. Because of the constraints on decisionmaking time for ITC-recommended chemicals, and because this notice solicits comment from all potential respondents on the purpose and requirements of the rule as it will be used, EPA does not propose to go through additional rulemaking to add these chemicals to the rule.

In the infrequent cases when processors must report, EPA would be working with incomplete data on the substances involved until about six months after the **Federal Register** publication of ITC's recommendations. This assumes that EPA would publish the chemicals for processor reporting in § 712.50 about 10 days after basic exposure data is available from manufacturers; that there would be an effective date 30 days after the date of this **Federal Register** publication; and that there would be a due date for processor reports 30 days after the effective date. Since recognition of the need for processor reporting depends on data from manufacturers, we cannot speed the processor reporting timetable. However, we anticipate requiring processor reporting very infrequently, and on very few chemicals, so that the number of instances in which EPA will have incomplete data for an interval of time will be very few.

B. Reporting on ITC-Designates to Date

Since the time when the originally proposed list of chemicals was compiled for the manufacturers reporting requirements, ITC has published six lists of priority candidates for testing under section 4. These lists, excluding the tenth list, have about 50 individual chemicals and category members that were not previously considered for preliminary assessment information reporting. This notice proposes that these 50 chemicals from lists five through nine be added to § 712.30. If the previously discussed automatic reporting provision were in place, these chemicals would be subject to it. To avoid further delay in obtaining exposure data needed for test rule decisions, we proposed these chemicals now and solicit public comment on whether they should be added to § 712.30.

IV. Economic Impact

The cost estimate of the proposed amendments has two parts.

The Agency estimates for planning purposes that it will receive insufficient information for preliminary assessment on approximately 10 percent of the 250 chemicals on which manufacturers must report. A better estimate cannot be established until the manufacturer reporting is under way, so the Agency will revise its cost estimates before processor reporting is required.

For the current estimate, we assume that five manufacturers will report on each chemical, and that three of these manufacturers will report unknown customer uses for more than 20 percent of the quantity they manufactured and imported during the reporting period. We also assume that there will be an average of 10 customers per manufacturer's report, and that five of the customers will be distributors and two will be small businesses not required to report. On this basis, the Agency estimates that approximately 225 processor reports would be required under this rule. At an average cost of $255 per plant site plus $100 per report to prepare and submit the Processor's Reporting Form, the total of the proposed processor reporting provisions would be $91,000. (For discussion of reporting costs, see Economic Impact and Small Business Definition Analysis for the final TSCA Section 8(a) Preliminary Assessment Information Rule, prepared by ICF, Inc., 1981.) This cost assumes that processors will not be required to search files to determine trade names of chemicals processed. The Agency requests comments on its estimate of the cost of submitting the form and on the overall economic impact of this rule.

The 50 additional chemicals listed in this amendment will have total reporting costs of $60,000. This includes 40 manufacturers submitting a total of 60 reports. With fixed costs of $480 per site, and variable costs of $420 per report, the manufacturers' costs are $44,000 for these 50 chemicals. The $60,000 also includes $16,000 as the cost of processors' reporting. Again we assume that manufacturers data will be incomplete for 10 percent of the 50 chemicals, and that nine customer-processors will report per chemical.

Costs for automatic reporting of future ITC-designated chemicals should be negligible, since ITC is expected to add very few chemicals to future lists for priority testing.

V. Public Meetings

At the end of the written comment period, EPA personnel responsible for developing this proposal will be available to meet in Washington, D.C. with interested persons from companies, organized labor, trade associations, and citizen organizations to discuss this proposal. EPA will provide facilities and make other necessary arrangements for such meetings. The Agency will make transcripts or summaries of the meetings for inclusion in the official public record.

All meetings will be open to the public. EPA generally intends to limit active participation in the Washington, D.C. meetings to those requesting the session and EPA personnel designated for the session.

Interested persons should call EPA's Industry Assistance Office, toll-free at (800–424–9065), in the Washington, D.C. area at (554–1404), or outside the U.S.A. (through Operator–202–554–1404), to request time for such a meeting.

VI. Rulemaking Record

The rulemaking record for this proposal is a continuation of the record for the requirements for Manufacturers Reporting—Preliminary Assessment Information, published elsewhere in today's **Federal Register**. This proposed rule, "Processors Follow-up Reporting—Preliminary Assessment Information" (OPTS–82004G) is also included in the public record. All documents, including the index to this public record, are available to the public in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. weekdays, Rm. E–107, 401 M Street, SW., Washington, DC 20460. This record includes basic information considered by the Agency in developing the rule.

EPA will identify the complete rulemaking record on or before the date

of promulgation of this regulation, as prescribed by section 19(a)(3) of TSCA, and will accept additional material for inclusion in the record at any time between this notice and that date. The final rule will also permit persons to point out any errors or omissions in the record. For discussion of reporting costs, see "Economic Impact and Small Business Definition Analysis for the Final TSCA Section 8(a) Preliminary Assessment Information Rule," prepared by ICF, Inc., 1981.

VII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it does not have an effect of $100 million or more on the economy. It is expected to have a one-time cost of about $500,000. It does not have a significant effect on competition, costs, or prices.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments are available for public inspection in the record for this rulemaking.

B. Regulatory Flexibility Act

Consistent with the purposes of the Regulatory Flexibility Act, the Agency has proposed here a definition of the businesses that will be excluded from reporting because they are small processors. Similarly, small manufacturers have already been defined and excluded from manufacturer reporting requirements. In addition, the average cost of reporting for a manufacturer or a processor under this proposal is small. It is $1100 for a manufacturer, and $400 for a processor (see above discussion of economic impact).

In view of the exemptions and the small cost per company, the Agency finds that this proposal, if adopted, would not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 et seq., authorizes the Director of the Office of Management and Budget to review certain information collection requests by Federal agencies. The reporting provisions in this rule have been approved by the Office of Management and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act of 1980, 3501 et seq., and have been assigned OMB control number 2000–0420.

The proposal contains a one-page form to be completed by processors of certain chemicals. Processors will complete the form only when manufacturers of the chemicals are unable to provide certain data about processing. The proposal is designed to minimize processor reporting. Processors will be required to report only if manufacturers cannot supply adequate data on their processor-customers. These processor-customers report directly to EPA.

List of Subjects in 40 CFR Part 712:

Chemicals, Environmental Protection, Reporting and recordkeeping requirements.

(Sec. 8, Pub. L. 94–469, 90 Stat. 2003 (15 U.S.C. 2607))

Dated: June 7, 1982.

Anne M. Gorsuch,

Administrator.

PART 712—CHEMICAL INFORMATION RULES

Therefore, it is proposed that 40 CFR Part 712 be amended as follows:

1. Subpart B, § 712.30 is amended by adding paragraphs (c) and (f) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(c) Substances and designated mixtures that have been recommended for testing by the Interagency Testing Committee, established under TSCA section 4, will become subject to this subpart 30 days after the Office of Toxic Substances publishes a notice listing the substance or designated mixture in the **Federal Register.** Manufacturers must submit Preliminary Assessment Information reports on these chemicals within 60 days after the notice is published.

* * * * *

(f) A Preliminary Assessment Information Manufacturers' Report must be submitted by September 20, 1982, on each chemical listed below.

CAS No., Chemical Name

67-72-1 Ethane, hexachloro-
75-02-5 Ethene, fluoro-
95-70-5 1,4-Benzenediamine, 2-methyl-
95-80-7 1,3-Benzenediamine, 4-methyl-
95-83-0 1,2-Benzenediamine, 4-chloro-
98-56-6 Benzene, 1-chloro-4-(trifluoromethyl)-
108-71-4 1,3-Benzenediamine, 5-methyl-
116-14-3 Ethene, tetrafluoro-
137-09-7 Phenol, 2,4-diamino-, dihydrochloride
359-11-5 Ethene, trifluoro-
541-69-5 1,3-Benzenediamine, dihydrochloride
541-70-8 1,3-Benzenediamine, sulfate (1:1)
614-94-8 1,3-Benzenediamine, 4-methoxy-, dihydrochloride
615-28-1 1,2-Benzenediamine, dihydrochloride
615-45-2 1,4-Benzenediamine, 2-methyl-, dihydrochloride
615-46-3 1,4-Benzenediamine, 2-chloro-, dihydrochloride
615-50-9 1,4-Benzenediamine, 2-methyl-, sulfate (1:1)
677-21-4 1-Propene, 3,3,3-trifluoro-
1197-37-1 1,2-Benzenediamine, 4-ethoxy-
1477-55-0 1,3-Benzenedimethanamine
3663-23-8 1,2-Benzenediamine, 4-butyl-
5042-55-7 1,3-Benzenediamine, 5-nitro-
5131-58-8 1,3-Benzenediamine, 4-nitro-
5131-60-2 1,3-Benzenediamine, 4-chloro-
5307-02-8 1,4-Benzenediamine, 2-methoxy-
5307-14-2 1,4-Benzenediamine, 2-nitro-
6219-67-6 1,3-Benzenediamine, 4-methoxy-, sulfate
6219-71-2 1,4-Benzenediamine, 2-chloro-, sulfate
6219-77-8 1,2-Benzenediamine, 4-nitro-, dihydrochloride
15872-73-8 Phenol, 2,4-diamino-6-methyl-
16245-77-5 1,4-Benzenediamine, sulfate (1:1)
18266-52-9 1,4-Benzenediamine, 2-nitro-, dihydrochloride
20103-09-7 1,4-Benzenediamine, 2,5-dichloro-
25376-45-8 Benzenediamine, ar-methyl-
39156-41-7 1,3-Benzenediamine, 4-methoxy-, sulfate (1:1)
42389-30-0 1,2-Benzenediamine, 5-chloro-3-nitro-
62654-17-5 1,4-Benzenediamine, ethanedioate (1:1)
65879-44-9 Phenol, 2,4-diamino-6-methyl-, hydrochloride
66422-95-5 Ethanol, 2-(2,4-diaminophenoxy)-, dihydrochloride
67801-06-3 1,3-Benzenediamine, 4-ethoxy-, dihydrochloride
68015-98-5 1,3-Benzenediamine, 4-ethoxy-, sulfate (1:1)
68239-80-5 1,3-Benzenediamine, 4-chloro-, sulfate (1:1)
68239-82-7 1,2-Benzenediamine, 4-nitro-, sulfate (1:1)
68239-83-8 1,4-Benzenediamine, 2-nitro-, sulfate (1:1)
68459-98-3 1,2-Benzenediamine, 4-chloro-, sulfate (1:1)
68966-84-7 1,3-Benzenediamine, ar-ethyl-ar-methyl-

2. Subpart C is being added to read as follows:

Subpart C—Processor's Follow-Up Reporting—Preliminary Assessment Information

Sec.

712.40 Processors who must report.
712.45 Exempt processors.
712.48 Form and instructions.
712.50 Chemical lists and reporting periods.

Authority: (Sec. 8(a), Toxic Substances Control Act, Pub. L. 94–469 (90 Stat. 2003, 15 U.S.C. 2607(a) et seq.)).

Subpart C—Processor's Follow-Up Reporting—Preliminary Assessment Information Rule

§ 712.40 Processors who must report.

Except as described in § 712.45, at the time a chemical substance is listed in § 712.50, persons who processed the chemical substance for commercial purposes during the reporting period indicated must submit a "Processor's Report—Preliminary Assessment Information" (as described in § 712.48) for each plant site where they processed the chemical substance.

§ 712.45 Exempt processors.

The following persons are exempt from reporting under § 712.40:

(a) Persons who reported their manufacture and processing of the chemical substance under § 712.30 are not subject to reporting under § 712.40.

(b) Persons who processed the chemical substance solely for purposes of scientific experimentation, analysis, or research, including research or analysis for product development, are not subject to reporting under § 712.40.

(c) Persons who processed below 500 kilograms (1100 pounds) of the chemical substance at a single plant site are not subject to reporting for that site under § 712.40.

(d) Persons who qualify as small processors in respect to a specific chemical listed in § 712.50 must report on the chemical only if it is designated by an asterisk. A small processor is exempt from submitting a report under this Subpart for a chemical substance processed at a particular plant site if both the following criteria are met:

(1) Total annual sales taken,together of all sites owned or controlled by the foreign or domestic parent company were below $30 million during the reporting period.

(2) The total amount of the listed substance processed at the plant site during the reporting period was below 45,400 kilograms (100,000 pounds).

(e) Persons are not subject to reporting under § 712.40 if they processed the chemical substance only in the following forms:

(1) A byproduct that was not used or sold or that was formed as described in 40 CFR 710.4(d)(3) through (7).

(2) An impurity.

(3) A mixture or article containing the listed chemical substance.

§ 712.48 Form and instructions.

(a) Processors subject to this Subpart must submit a single EPA Form No. 7710–35a, "Processor's Follow-up Report—Preliminary Assessment Information," for each plant site processing a chemical substance listed in § 712.50.

(b) Chemical substances will be listed under § 712.50 only when the data submitted on Manufacturer's Report—Preliminary Assessment Information under Subpart B show unknown customer uses for more than 20 percent of the aggregate total manufactured and imported. Processor follow-up reporting will be required on chemical substances that are marketed by manfacturers who reported unknown customer uses for more than 20 percent of the total quantity they manufacture and import.

(c) The designation of chemical substances for reporting by processors will be made by **Federal Register** notice.

(d) Reporting companies may submit their reports through individual plant sites or company headquarters as they choose. A separate form must be submitted for each plant site processing the chemical substance.

(e) Forms must be sent to: Document Control Officer, Office of Pesticides and Toxic Substances, Environmental Protection Agency, P.O. Box 2080, Rockville, MD 20852.

(f) Forms must be submitted within 30 days after the effective date on which a chemical substance is added to § 717.50.

(g) If a processor must report on more than 15 chemical substances he may petition the Assitant Aministrator of Pesticides and Toxic Substances for an extension of time. Requests for extensions should be submitted to: Document Control Officer, Office of Pesticides and Toxic Substances (TS–793), Environmental Protection Agency, Room E–401, 401 M St., SW., Washington, DC 20460.

(h) Instructions and a facsimile of the form are as follows:

BILLING CODE 6560-50-M

INSTRUCTIONS FOR PROCESSOR'S REPORT FORM PRELIMINARY ASSESSMENT INFORMATION

What chemicals to report – This form applies to chemical substances that are listed in 40 CFR 712.50.

Reporting period – Enter the month and year beginning and ending the 12-month period for which you report. This reporting period is listed with the chemical substance in 40 CFR 712.50.

Who must report – All firms who purchased and processed a chemical under one of the names listed in 40 CFR 712.50 must report.

How many forms to complete – For each chemical, complete a separate form for each plant site that processed the chemical.

Who may submit forms – Companies may choose to complete and submit forms directly to EPA from each plant site, or through company headquarters.

Retention of forms – You should keep a copy of each completed form. Refer to the form's preprinted Control Number (shown in the upper right corner) when communicating with EPA.

EPA assistance – For further information or to obtain copies of the Processor's Report form, contact:

Industry Assistance Office (TS-799)
Office of Pesticides and Toxic Substances
Environmental Protection Agency
401 M Street, SW.
Washington, D.C. 20460
Toll free: (800) 424–9065
In Washington, D.C.: 554–1404
Outside the USA: Operator (202) 554–1404

I. CERTIFICATION

Technical certification -- Certify the technical accuracy of data you report on the form by signing and dating the Technical Certification Statement. Print or type the name and title of the person who signs this statement.

Confidentiality certification – You may claim information confidential by marking appropriate boxes in sections III and IV. If you claim any information confidential, you must certify that the Confidentiality Statements are true for all information claimed confidential on the form. Do this by signing and dating the Confidentiality Certification Statement. Print or type the name and title of the person who signs this statement.

II. CHEMICAL IDENTIFICATION

Enter the name under which you purchased the chemical. This is listed in 40 CFR 712.50.

III. RESPONDENT IDENTIFICATION

Confidentiality – Mark this box to claim confidential all Respondent Identification in section III.

Item A – Enter the name, physical location address, and Dun and Bradstreet number of the plant site for which the data are reported. If the plant site does not have a Dun and Bradstreet number, enter N/A in that space.

Item B – Mark the appropriate box to show whether the plant site or corporate headquarters is submitting this form. Enter the corresponding name and mailing address.

If corporate headquarters submits this form, enter its Dun and Bradstreet number. If it does not have a Dun and Bradstreet number, or if the plant site submits this form, enter N/A in that space.

EPA will send all correspondence about the form to this address.

Item C – Enter the name, title, and telephone number (including area code) of a person for EPA to contact if there are questions about data reported on this form.

Item D – EPA will acknowledge receipt of the form to the person named in this item.

IV. PROCESSING ACTIVITIES

Accuracy – For each item, provide numbers that represent your best estimates based on readily obtainable data.

TSCA Regulable Quantities – Do not report any quantity of chemical substance that is processed solely for use as: a pesticide; tobacco or any tobacco product; any source material, special nuclear material, or byproduct material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act); firearms or ammunition; or food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug and Cosmetic Act). The above are not TSCA regulable.

Item 1 – Enter the total quantity you processed during the reporting period.

Item 2 – Report the quantity of the chemical substance that you use or process for each of the categories in 2a to 2h. Include the quantity of the chemical substance itself, and the quantity of chemical substance in any product that you distribute.

For items 2a through 2g, if you are not sure about whether your products are for domestic or foreign use, report them as domestic.

The products are divided into industrial and consumer products. "Industrial" means the manufacturing and service industries covered by the Standard Industrial Codes. Products meant to be used primarily by the general population are considered to be "consumer" products. The following definition from the Consumer Product Safety Act can be used as a guide (15 U.S.C. 2052(a)(1)): "The term 'consumer product' means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise." If you are uncertain about whether your products are industrial or consumer, report them as consumer.

Three types of industrial and consumer product types are described below.

"Chemical substance or mixture" means a chemical, or mixture containing the chemical, that is used directly by the persons using the product, e.g., cleaners, paints, inks, deodorizers, solvents, etc. This includes chemicals or mixtures in containers or other articles whose purpose is to release the chemical (e.g., cans of spray paint, ink pens, and other applicators).

"Articles or products with no release" are articles constructed in a way to prevent human exposure to or release to the environment of the chemical substance during normal use and storage (e.g., chemical coatings on internal components, and chemicals inside sealed articles as in thermometers and batteries).

"Articles or products with some release" are articles whose material components are made of chemicals which come in direct contact with persons using the article, the atmosphere, land, or water; e.g., exposure can come from leaching, evaporation, or surface contact. This includes such articles as plastic containers, chemically treated textiles, printed paper, coated appliances, etc. If the chemical itself is sold in a bottle or other container it should be reported under "Chemical substance or mixture," not as an article. Only the container itself is an article for purposes of this form; the substance it contains is not a component of an article.

In item 2g, report the quantity of chemical substance that you export directly either as the chemical or contained in mixtures or articles.

In item 2h, report the quantity of chemical substance that you react to make products that do not contain the chemical substance itself.

Item 3 — List the quantity of chemical substance that you process in each of the following process categories.

Enclosed process — The process is designed and operated so that there is no intentional release of the chemical. In this process category, only fugitive or inadvertent releases occur, and special measures are taken to prevent worker exposure and environmental contamination. "Special measures" refer to procedures and equipment that are monitored and used to prevent worker exposure, and scrubbers and other recovery equipment employed to prevent environmental release. Equipment with emergency pressure relief venting would be allowed in this category; routine venting would not.

Controlled release process — The process is operated in a controlled manner to minimize release of the chemical into the workplace. Releases should generally be within prescribed limits. These limits may be dictated by government regulations or by company guidelines. If the chemical is vented outside the plant, the process is a "controlled release" process. Do not count general space ventilation fans.

Open process — The chemical is routinely in direct contact with the atmosphere (workplace or outside the plant) and no measures are taken to prevent release. For example, reaction vessels are open vats, the chemical is transported or stored in open containers, or the chemical is freely vented into the workplace atmosphere.

IMPORTANT: Before completing this form, please read the accompanying instructions carefully.

EPA U.S. ENVIRONMENTAL PROTECTION AGENCY
401 M Street, S.W.
Washington, D.C. 20460

PROCESSOR'S FOLLOW-UP REPORT
PRELIMINARY ASSESSMENT INFORMATION

This information is required under the authority of Section 8(a), Toxic Substances Control Act, 15 U.S.C. 2607.

when completed send this form to:
Document Control Officer
Office of Pesticides and Toxic Substances
U.S.E.P.A.
P.O. Box 2080
Rockville, Md. 20852

CONTROL NUMBER

PERIOD COVERED
FROM: Mo. | Yr. | TO: Mo. | Yr.

Section I — CERTIFICATION

TECHNICAL CERTIFICATION STATEMENT

I hereby certify that, to the best of my knowledge and belief, all information entered on this form is complete and accurate. I agree to permit access to, and the copying of records by, a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here.

Signature | Date

Name and title — *Please print or type*

CONCERNING EPA DISCLOSURE OF INFORMATION

Any person who submits information to EPA under the Preliminary Assessment Information Rule (40 CFR 712) should be aware of EPA regulations (40 CFR Part 2) which govern disclosure of such information. Those regulations provide that such person may, if he or she desires, assert a confidentiality claim covering part or all of the information submitted. Information covered by such a claim will be publicly disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. However, if no such claim accompanies the information when it is received, EPA may make that information public without notifying the submitter.

CONFIDENTIALITY STATEMENTS

Information disclosed to EPA on this form may be claimed confidential by marking the appropriate boxes below. The person signing the Confidentiality Certification Statement attests to the truth of the following four statements concerning all information that is claimed confidential. Note that chemical substance identity may not be claimed confidential for this rule.

1. My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.
2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).
3. The information is not publicly available elsewhere.
4. Disclosure of the information would cause substantial harm to our competitive position.

CONFIDENTIALITY CERTIFICATION STATEMENT

I hereby certify that the Confidentiality Statements on this form are true as to that information below for which I have asserted a confidentiality claim.

Signature | Date

Name and title — *Please print or type*

Section II — CHEMICAL IDENTIFICATION

Name under which chemical was purchased →

Section III — RESPONDENT IDENTIFICATION

☐ *MARK THIS BOX TO CLAIM THIS SECTION CONFIDENTIAL*

Part A — Plant Site — Physical location

Name
Number and street
City
County
State | ZIP code
Dun and Bradstreet number
| | | — | | | | — | | | | | |

Part B — Mailing Address of:

☐ Corporate Headquarters ☐ Plant Site

Name
Number and street
City
State | ZIP code
Dun and Bradstreet number (for corporate headquarters only)
| | | — | | | | — | | | | | |

Part C — Technical Contact

Name and title
Telephone *(Area code/number)*
☐ At headquarters
☐ At plant site

Part D — Acknowledgement

EPA will send acknowledgement to – *Name and title*

Section IV — PROCESSING ACTIVITIES

NOTE Mark the box to the left of any item below to claim the answer to the item as confidential. Report all quantities in kilograms (1 kilogram = 2.2 pounds). Enter N/A for any item that does not apply to you; do not leave any blanks. Report your best estimates from readily obtainable data.

☐ 1. Total quantity of bulk chemical obtained for processing → kg

☐ 2. Quantity of the chemical processed for —

INDUSTRIAL PRODUCTS (domestic)	**a.** Chemical or mixture	kg	**CONSUMER PRODUCTS (domestic)**	**d.** Chemical or mixture	kg
	b. Article with some release	kg		**e.** Article with some release	kg
	c. Article with no release	kg		**f.** Article with no release	kg

g. Products for export → kg

h. Quantity of chemical consumed as reactant → kg

☐ 3. Quantity of the chemical processed in —

a. Enclosed process kg | **b.** Controlled release kg | **c.** Open process kg

EPA Form 7710-35a
BILLING CODE 6560-50-C

§ 712.50 Chemical list and reporting periods.

(a) *Subject chemical substances.* A Preliminary Assessment Information Processor's Report must be submitted by the deadline specified for each chemical substance listed below. The reporting period for each chemical is the 12-month period for which manufacturers provided incomplete information.

(b) [Reserved].

[FR Doc. 82-15957 Filed 6-21-82: 8:45 am]

BILLING CODE 6560-50-M

federal register

Tuesday
June 22, 1982

Part IV

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

June 1, 1982.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of June 1, 1982 of twenty-six rescission proposals and 243 deferrals contained in the first twelve messages of FY 1982. These messages were transmitted to the Congress on October 1, 20, 23, and 29, and November 6, and 13, 1981, January 22, February 8, and 19, March 18, April 23, and May 18, 1982.

Rescissions (Table A and Attachment A)

Twenty-four rescission proposals totaling $7,488.8 million are currently pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of June 1, 1982 while Attachment A shows the history and status of each rescission proposed during FY 1982.

Deferrals (Table B and Attachment B)

As of June 1, 1982, $2,789.5 million in 1982 budget authority was being deferred from obligation and another $5.1 million in 1982 obligations was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1982.

Information From Special Messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the **Federal Register** of:

Vol. 46, No. 194, FR p. 49793, Wednesday, October 7, 1981
Vol. 46, No. 206, FR p. 52289, Monday, October 26, 1981
Vol. 46, No. 210, FR p. 54259, Friday, October 30, 1981
Vol. 46, No. 212, FR p. 54691, Tuesday, November 3, 1981
Vol. 46, No. 218, FR p. 55905, Thursday, November 12, 1981
Vol. 46, No. 223, FR p. 57019, Thursday, November 19, 1981
Vol. 47, No. 18, FR p. 4021, Wednesday, January 27, 1982
Vol. 47, No. 28, FR p. 6193, Wednesday, February 10, 1982
Vol. 47, No. 37, FR p. 8145, Wednesday, February 24, 1982
Vol. 47, No. 57, FR p. 12751, Wednesday, March 24, 1982
Vol. 47, No. 82, FR p. 18301, Wednesday, April 28, 1982
Vol. 47, No. 100, FR p. 22483, Monday May 24, 1982

David A. Stockman,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1982 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$ 7,577.0
Accepted by the Congress	-0-
Rejected by the Congress	88.2
Pending before the Congress	$ 7,488.8 a.

* *

TABLE B

STATUS OF 1982 DEFERRALS

	Amount (In millions of dollars)*
Deferrals proposed by the President	$ 7,980.3
Routine Executive releases (-$4.934.4 million) and adjustments ($43.1 million) through May 1, 1982	-4,891.3
Overturned by the Congress	-294.3
Currently before the Congress	$ 2,794.6 b.

a. This amount includes $20.5 million in FY 1983 funds (R82-3).

b. This amount includes $5.1 million in outlays for a Department of the Treasury deferral (D82-23A).

* Detail does not add to total due to rounding.

Attachments

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1982 AS OF 06/07/82 11:43

AS OF JUNE 1, 1982 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
FUNDS APPROPRIATED TO THE PRESIDENT							
International Development Assistance							
Functional development assistance program BA	R82- 4		8,129	2 8 82		8,129*	4 23 82
Sahel development program BA	R82- 5		2,500	2 8 82		2,500*	4 23 82
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA			10,629			10,629	
DEPARTMENT OF AGRICULTURE							
Extension Service							
Extension service BA	R82- 6		2,000	2 8 82		2,000*	4 26 82
DEPARTMENT OF AGRICULTURE TOTAL BA			2,000			2,000	
DEPARTMENT OF COMMERCE							
National Oceanic and Atmospheric Administration							
Coastal zone management BA	R82- 7		12,000	2 8 82		12,000*	4 26 82
Coastal energy impact fund BA	R82- 8		7,000	2 8 82		7,000*	4 26 82
DEPARTMENT OF COMMERCE TOTAL BA			19,000			19,000	
DEPARTMENT OF DEFENSE - MILITARY							
Procurement							
Aircraft procurement, Air Force BA	R82- 1	65,700		10 23 81		65,700	12 14 81
Missile procurement, Air Force BA	R82- 2	22,500		10 23 81		22,500	12 14 81
DEPARTMENT OF DEFENSE - MILITARY TOTAL BA		88,200				88,200	
DEPARTMENT OF EDUCATION							
Office of Elementary and Secondary Education							
Compensatory education for the disadvantaged BA	R82- 9		411,933	2 8 82		411,933 *	4 26 82
Special programs and populations BA	R82-10		65,600	2 8 82		65,600 *	4 26 82
Indian education BA	R82-11		6,255	2 8 82		6,255 *	4 26 82
Office of Special Education and Rehab. Services							
Education for the handicapped BA	R82-12		258,572	2 8 82		258,572*	4 26 82

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1982 AS OF 06/07/82 11:43

AS OF JUNE 1, 1982 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Rehabilitation services and handicapped research								
	BA	R82-13		91,171	2 8 82		91,171*	4 26 82
Office of Vocational and Adult Education								
Vocational and adult education								
	BA	R82-14		105,741	2 8 82		105,741*	4 26 82
Office of Postsecondary Education								
Student financial assistance								
	BA	R82-15		141,500	2 8 82		141,500*	4 26 82
Higher and continuing education								
	BA	R82-16		42,739	2 8 82		42,739*	4 26 82
Office of Educational Research and Improvement								
Libraries								
	BA	R82-17		22,110	2 8 82		22,110*	4 26 82
Departmental management								
Educ. res. & train. overseas (spec. for. curr.)								
	BA	R82-18		80	2 8 82		80*	4 26 82
Office of Bilingual Educ. & Minority Lang. Affairs								
Bilingual education								
	BA	R82-19		11,504	2 8 82		11,504*	4 26 82
DEPARTMENT OF EDUCATION TOTAL	BA			1,157,205			1,157,205	
DEPARTMENT OF ENERGY								
Energy Programs								
Energy conservation								
	BA	R82-20		20,000	2 8 82		20,000*	4 26 82
DEPARTMENT OF ENERGY TOTAL	BA			20,000			20,000	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Subsidized housing programs								
	BA	R82-21		9,399,789	2 8 82		5,999,789*	4 26 82
	BA	R82-21A		-3,400,000	4 23 82			
Solar Energy and Energy Conservation Bank								
Assistance for solar and conserv. improvements								
	BA	R82-22		21,850	2 8 82		21,850*	4 26 82
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL	BA			6,021,639			6,021,639	
DEPARTMENT OF LABOR								
Mine Safety and Health Administration								
Salaries and expenses								
	BA	R82-23		4,095	2 8 82		2,095*	4 26 82
	BA	R82-23A		-2,000	2 19 82			
DEPARTMENT OF LABOR TOTAL	BA			2,095			2,095	

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1982 AS OF 06/07/82 11:43

AS OF JUNE 1, 1982 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF TRANSPORTATION							
Federal Highway Administration							
Highway-related safety grants							
BA	R82-24		9,623	2 8 82		9,623*	4 26 82
DEPARTMENT OF TRANSPORTATION TOTAL BA			9,623			9,623	
OTHER INDEPENDENT AGENCIES							
Corporation for Public Broadcasting							
Public broadcasting fund							
BA	R82- 3		20,500a	11 6 81			
National Foundation on the Arts and Humanities							
Institute of Museum Services: Program operations							
BA	R82-25		10,877	2 8 82		10,877*	4 26 82
Postal Service							
Payment to the Postal Service Fund							
BA	R82-26		215,230	3 18 82			
OTHER INDEPENDENT AGENCIES TOTAL BA			246,607			10,877	
TOTAL BA		88,200	7,488,798			7,341,268	

* This item is still under consideration by the Congress, but the amounts were made available upon expiration of the 45-day clock.

a. This is a proposal to rescind FY 1983 funds.

END OF REPORT

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST		AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
EXECUTIVE OFFICE OF THE PRESIDENT										
White House Office										
Salaries and Expenses	BA	D82- 27	366			10 20 81	-366			
Special Assistance to the President										
Salaries and Expenses	BA	D82- 28	28			10 20 81	-28			
Council of Economic Advisers										
Salaries and Expenses	BA	D82- 86	32			10 23 81	-32			
Council on Envir. Quality & Office of Envir. Qual.										
Salaries and Expenses	BA	D82- 29	9			10 20 81	-9			
Office of Policy Development										
Salaries and Expenses	BA	D82- 30	45			10 20 81	-45			
National Security Council										
Salaries and Expenses	BA	D82- 31	62			10 20 81	-62			
Office of Administration										
Salaries and expenses	BA	D82- 32	139			10 20 81	-139			
OMB, Office of Fed. Procurement Policy										
Salaries and expenses	BA	D82- 33	24			10 20 81	-24			
Office of Science and Technology Policy										
Salaries and expenses	BA	D82- 34	30			10 20 81	-30			
Office of the U.S. Trade Representative										
Salaries and expenses	BA	D82- 35	78			10 20 81	-78			
EXECUTIVE OFFICE OF THE PRESIDENT TOTAL	BA		813				-813			
FUNDS APPROPRIATED TO THE PRESIDENT										
Appalachian Regional Development Programs										
Appalachian regional development programs	BA	D82- 1	15,000			10 1 81				
	BA	D82- 1A			a	1 22 82				
	BA	D82- 1B			a	2 8 82				15,000
Disaster Relief										
Disaster relief	BA	D82-158	7,000			10 29 81	-7,000			
	BA	D82-159	138,000			10 29 81	-138,000			
International Security Assistance										
Foreign military credit sales	BA	D82-222	680,000			2 8 82	-680,000			
Economic support fund	BA	D82-219	1,756,980			1 22 82	-1,674,230			82,750
Military assistance	BA	D82-223	129,512			2 8 82	-97,000			32,512
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		2,726,492				-2,596,230			130,262
DEPARTMENT OF AGRICULTURE										
Office of the Secretary										
Office of the Secretary	BA	D82-160	29			10 29 81	-29			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
Agricultural Research Service								
Agricultural research service	BA D82-161	1,813		10 29 81	-1,813			
Cooperative State Research Service								
Cooperative state research service	BA D82-162	2,790		10 29 81	-2,790			
Extension Service								
Extension service	BA D82-163	1,990		10 29 81	-1,990			
National Agricultural Library								
National agricultural library	BA D82-164	93		10 29 81	-93			
Statistical Reporting Service								
Statistical reporting service	BA D82-165	198		10 29 81	-198			
Agricultural Cooperative Service								
Agricultural cooperative service	BA D82-166	39		10 29 81	-39			
Office of Internat. Cooperation and Development								
Scientific activities overseas	BA D82-167	700		10 29 81	-700			
Rural Electrification Administration								
Rural electr. and telephone revolving fund	BA D82-169	49,368b		10 29 81	-49,368			
Foreign Assistance Programs								
Expenses, P.L. 480	BA D82- 36	25,696		10 20 81	-25,696			
Agricultural Stabilization & Conservation Service								
Dairy and beekeeper indemnity programs	BA D82- 88	28		10 23 81	-28			
Agricultural conservation	BA D82- 87	8,600		10 23 81	-8,600			
Emergency conservation program	BA D82-168	1,400		10 29 81	-1,400			
Farmers Home Administration								
Salaries and expenses	BA D82-171	526		10 29 81	-526			
Rural housing for domestic farm labor	BA D82-173	1,750		10 29 81	-1,750			
	BA D82-224	10,728		2 8 82				10,728
Mutual and self-help housing	BA D82-174	490		10 29 81	-490			
Rural water and waste disposal	BA D82-170	8,680		10 29 81	-8,680			
Rural community fire protection grants	BA D82-172	490		10 29 81	-490			
Agricultural credit insurance fund	BA D82-175	1,316		10 29 81	-1,316			
Rural development insurance fund	BA D82-176	21,000		10 29 81	-21,000			
Soil Conservation Sevice								
Watershed and flood prevention operations	BA D82- 89	8,926		10 23 81	-8,926			
Animal and Plant Health Inspection Service								
Animal and plant health inspection service	BA D82- 90	4,125		10 23 81	-4,125			
Buildings and facilities	BA D82-177	236		10 29 81	-236			
Agricultural Marketing Service								
Payments to States and possessions	BA D82-178	210		10 29 81	-210			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
Food and Nutrition Service								
Food program administration								
BA	D82-209	487		11 6 81	-487			
Child nutrition programs								
BA	D82-210	472		11 6 81	-472			
Special supplemental food programs (WIC)								
BA	D82-211	13,831		11 6 81	-13,831			
Forest Service								
State and private forestry								
BA	D82- 92	776		10 23 81	-776			
BA	D82-179	657		10 29 81	-657			
Agricultural research								
BA	D82- 91	1,348		10 23 81	-1,348			
National forest system								
BA	D82- 93	12,516		10 23 81	-12,516			
BA	D82-180	1,059		10 29 81	-1,059			
Construction and land acquisition								
BA	D82- 94	6,693		10 23 81	-6,693			
Timber salvage sales								
BA	D82- 2	6,723		10 1 81				
BA	D82- 2A		561	1 22 82				7,284
Rangeland improvements								
BA	D82- 96	109		10 23 81	-109			
Acquisition of lands to complete land exchanges								
BA	D82- 95	6		10 23 81	-6			
Expenses, brush disposal								
BA	D82- 3	49,349		10 1 81			-948	
BA	D82- 3A		a	4 23 82				48,401
DEPARTMENT OF AGRICULTURE TOTAL BA		245,247	561		-178,447		-948	66,413
DEPARTMENT OF COMMERCE								
General Administration								
Participation in U.S. expositions								
BA	D82- 4	507		10 1 81	-32			475
Bureau of the Census								
Periodic censuses and programs								
BA	D82-225	1,015		2 8 82				
BA	D82-225A		a	5 18 82				1,015
Economic and Statistical Analysis								
Salaries and expenses								
BA	D82- 97	420		10 23 81	-420			
Economic Development Administration								
Economic development assistance programs								
BA	D82- 98	38,855		10 23 81	-38,855			
Minority Business Development Agency								
Minority business development								
BA	D82- 99	857		10 23 81	-857			
BA	D82-226	5,000		2 8 82				
BA	D82-226A		5,000	5 18 82				10,000
United States Travel Service								
Salaries and expenses								
BA	D82-181	287		10 29 81	-287			
National Oceanic and Atmospheric Administration								
Operations, research, and facilities								
BA	D82-100	12,891		10 23 81	-12,891			
Construction								
BA	D82- 5	2,000		10 1 81				
BA	D82- 5A		a	1 22 82				
BA	D82- 5B		a	5 18 82				2,000
National Telecom. and Information Admin.								
Salaries and expenses								
BA	D82-101	277		10 23 81	-277			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
DEPARTMENT OF COMMERCE								
TOTAL BA		62,109	5,000		-53,619			13,490
DEPARTMENT OF DEFENSE-MILITARY								
Procurement								
Shipbuilding and conversion, Navy								
BA	D82-227	1,275,000		2 8 82				1,275,000
Military Construction								
Military construction, all services								
BA	D82- 6	38,837		10 1 81				
BA	D82- 6A		14,101	1 22 82				
BA	D82- 6B		714,785	2 8 82	-521,174		39,510	286,059
Family Housing, Defense								
Family housing, Defense								
BA	D82- 7	1,992		10 1 81	-1,992			
DEPARTMENT OF DEFENSE-MILITARY								
TOTAL BA		1,315,829	728,886		-523,166		39,510	1,561,059
DEPARTMENT OF DEFENSE-CIVIL								
Cemeterial Expenses, Army								
Salaries and expenses								
BA	D82- 37	85		10 20 81	-85			
Corps of Engineers								
General investigations								
BA	D82- 38	2,068		10 20 81	-2,068			
Construction, general								
BA	D82- 39	14,284		10 20 81	-14,284			
General expenses								
BA	D82- 40	370		10 20 81	-370			
Special recreation use fees								
BA	D82- 41	59		10 20 81	-59			
Soldiers and Airmen s Home								
Operation and maintenance								
BA	D82- 42	63		10 20 81	-63			
Wildlife Conservation, Military Reservations								
Wildlife conservation, all services								
BA	D82- 8	597		10 1 81	-8		8	
BA	D82- 8A		433	1 22 82	-22			1,008
DEPARTMENT OF DEFENSE-CIVIL								
TOTAL BA		17,526	433		-16,959		8	1,008
DEPARTMENT OF ENERGY								
Energy Programs								
Fossil energy R&D								
BA	D82-105	14,769		10 23 81	-14,769			
BA	D82-236	44,883		3 18 82		-44,883		
Fossil energy construction								
BA	D82- 9	135,000		10 1 81		-135,000		
Gen. science & research-plant & capital								
BA	D82-102	1,682		10 23 81	-1,682			
Energy supply R&D-operating expenses								
BA	D82-103	49,393		10 23 81	-49,393			
BA	D82-228	4,000		2 8 82				4,000
BA	D82-228A		a	3 18 82				
Energy supply R&D-plant and capital equip.								
BA	D82-104	11,949		10 23 81	-11,949			
Energy conservation								
BA	D82-106	14,007		10 23 81	-14,007			
Strategic Petroleum Reserve								
BA	D82- 10	8,000		10 1 81				
BA	D82- 10A		52,860	2 8 82	-8,000			52,860

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE		DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
Energy information administration	BA	D82-107	2,042			10 23 81	-2,042			
Economic regulation	BA	D82-108	2,436			10 23 81	-2,436			
Federal Energy Regulatory Commission	BA	D82-109	490			10 23 81	-490			
Geothermal resources development fund	BA	D82-110	18			10 23 81	-18			
	BA	0000								
DEPARTMENT OF ENERGY TOTAL	BA		288,669	52,860			-104,786	-179,883		56,860
DEPARTMENT OF HEALTH AND HUMAN SERVICES										
Health Services Administration										
Health Services	BA	D82- 11	1,508			10 1 81				1,508
Indian health services	BA	D82-212	10,950			11 6 81	-10,950			
Centers for Disease Control										
Preventive Health Services	BA	D82-213	791			11 6 81	-791			
Alcohol, Drug Abuse & Mental Health Administration										
Construction & renovation, St. Elizabeths Hospital	BA	D82- 12	11,500			10 1 81				
	BA	D82- 12A			a	1 22 82				11,500
Office of Assistant Secretary for Health										
Health services management	BA	D82-214	1,142			11 6 81	-1,142			
Special foreign currency program	BA	D82- 13	7,000			10 1 81				
	BA	D82- 13A			a	1 22 82				7,000
Health Care Financing Administration										
Program management	BA	D82-215	420			11 6 81	-420			
Social Security Administration										
Refugee assistance	BA	D82- 43	10,000			10 20 81	-10,000			
Cuban and Haitian entrants, reception & process.	BA	D82- 44	4,900			10 20 81	-4,900			
	BA	D82- 44A			a	1 22 82				
Cuban and Haitian entrants, domestic asst.	BA	D82- 45	37,000			10 20 81				
	BA	D82- 45A		11,398		1 22 82	-48,398			
Limitation on administrative expenses	BA	D82-237	9,600			3 18 82				
	BA	D82-237A			a	5 18 82				9,600
Human Development Services										
Work incentives	BA	D82-216	10,523			11 6 81	-10,523			
DEPARTMENT OF HEALTH AND HUMAN SERVICES TOTAL	BA		105,334	11,398			-87,124			29,608
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT										
Housing Programs										
Subsidized housing programs	BA	D82-182	79,218			10 29 81	-79,218			
Payments for operation of low income housing	BA	D82-183	102,452			10 29 81	-102,452			
Housing for the elderly or handicapped	BA	D82-111	14,294			10 23 81	-14,294			
Solar Energy and Energy Conserv. Bank										
Assist for solar and conserv. improvements	BA	D82-184	3,500			10 29 81	-3,500			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
Community Planning and Development								
Community development support assistance								
BA	D82-112	61,589		10 23 81	-61,589			
Urban development action grants								
BA	D82-113	8,412		10 23 81	-8,412			
Rehabilitation loan fund								
BA	D82-185	26,959		10 29 81	-26,959			
Neighborhoods, Vol. Assoc. & Consumer Prot.								
Housing counseling assistance								
BA	D82- 46	207		10 20 81	-207			
Policy Development and Research								
Research and technology								
BA	D82- 47	420		10 20 81	-420			
Fair Housing and Equal Opportunity								
Fair housing assistance								
BA	D82- 48	96		10 20 81	-96			
Management and Administration								
Salaries and expenses								
BA	D82-186	3,590		10 29 81	-3,590			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
TOTAL BA		300,737			-300,737			
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Acquisition, construction and maintenance								
BA	D82- 49	121		10 20 81	-121			
Range improvements								
BA	D82-114	237		10 23 81	-237			
Bureau of Reclamation								
Loan program								
BA	D82-115	792		10 23 81	-792			
Construction program								
BA	D82-116	4,603		10 23 81	-4,603			
General investigations								
BA	D82-117	944		10 23 81	-944			
Operations and maintenance								
BA	D82-118	64		10 23 81	-64			
General administrative expenses								
BA	D82-119	353		10 23 81	-353			
Office of Water Research & Technology								
Salaries and expenses								
BA	D82-120	600		10 23 81	-600			
U.S. Fish and Wildlife Service								
Resource management								
BA	D82-121	5,815		10 23 81	-5,815			
Construction and anadromous fish								
BA	D82- 50	392		10 20 81	-392			
National Park Service								
Urban park and recreation grants								
BA	D82-125	1,400		10 23 81	-1,400			
BA	D82-238	858		3 18 82				858
Operation of the National Park Service								
BA	D82-122	5,216		10 23 81	-5,216			
John F. Kennedy Center for the Performing Arts								
BA	D82-124	40		10 23 81	-40			
Construction								
BA	D82-123	5,207		10 23 81	-5,207			
Land and water conservation fund								
BA	D82-126	16,256		10 23 81	-16,256			
BA	D82- 14	30,000		10 1 81				
BA	D82- 14A		a	2 8 82				30,000
BA	D82-239	2,821		3 18 82				2,821

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE		DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
Historic preservation fund										
	BA	D82-218	108			11 13 81	-108			
	BA	D82-240	781			3 18 82				781
Geological Survey										
Surveys, investigations and research										
	BA	D82- 51	9,019			10 20 81	-9,019			
Exploration of National Petroleum Res. in Alaska										
	BA	D82- 52	80			10 20 81	-80			
Payments from proceeds, sale of water										
	BA	D82- 15	45			10 1 81				45
Office of Surface Mining Reclam. and Enforcement										
Regulation and technology										
	BA	D82- 53	1,245			10 20 81	-1,245			
Bureau of Mines										
Drainage of anthracite mines										
	BA	D82- 16	991			10 1 81				
	BA	D82- 16A				2 8 82				991
Mines and minerals										
	BA	D82- 54	2,600			10 20 81	-2,600			
Bureau of Indian Affairs										
Operation of Indian programs										
	BA	D82-127	16,607			10 23 81	-16,607			
Construction										
	BA	D82-128	148			10 23 81	-148			
Road construction										
	BA	D82-129	279			10 23 81	-279			
Office of Territorial Affairs										
Administration of territories										
	BA	D82- 55	2,439			10 20 81	-2,439			
Trust territory of the Pacific Islands										
	BA	D82- 56	2,068			10 20 81	-2,068			
Office of the Solicitor and Office of the Secy										
Departmental management										
	BA	D82-130	414			10 23 81	-414			
Youth conservation corps										
	BA	D82-131	2,494			10 23 81	-2,494			
DEPARTMENT OF THE INTERIOR										
TOTAL	BA		115,037				-79,541			35,496
DEPARTMENT OF JUSTICE										
General Administration										
Salaries and expenses										
	BA	D82-187	250			10 29 81	-250			
	BA	D82-188	196			10 29 81	-196			
United States Parole Commission										
Salaries and expenses										
	BA	D82-189	60			10 29 81	-60			
Legal Activities										
Salaries and expenses, Antitrust Division										
	BA	D82-190	81			10 29 81	-81			
Salaries and expenses, Foreign Claims Settl.										
	BA	D82-191	12			10 29 81	-12			
Federal Prison System										
Buildings and facilities										
	BA	D82-192	1,922			10 29 81	-1,922			
	BA	D82- 17	2,700			10 1 81				
	BA	D82- 17A			a	2 8 82				
	BA	D82- 17B			a	5 18 82				2,700
Office of Justice Assist., Res., and Statistics										
Law enforcement assistance										
	BA	D82-193	10,729			10 29 81	-10,729			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 — AS OF 06/07/82 10:40

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
DEPARTMENT OF JUSTICE								
TOTAL BA		15,950			-13,250			2,700
DEPARTMENT OF LABOR								
Employment and Training Administration								
Employment and training assistance								
BA	D82-194	407,670		10 29 81	-407,670			
BA	D82-229	88,543		2 8 82				88,543
BA	D82- 18	49,881		10 1 81	-49,881			
Occupational Safety and Health Admin.								
Salaries and expenses								
BA	D82-195	8,500		10 29 81	-8,500			
DEPARTMENT OF LABOR								
TOTAL BA		554,594			-466,051			88,543
DEPARTMENT OF STATE								
Administration of Foreign Affairs								
Emergencies in dipl. and consular service								
BA	D82- 58	84		10 20 81	-84			
Acquis., oper. and main. of buildings abroad								
BA	D82- 57	514		10 20 81	-514			
International Commissions								
Salaries and expenses								
BA	D82- 59	80		10 20 81	-80			
Construction								
BA	D82- 60	20		10 20 81	-20			
American sections, internat. commissions								
BA	D82- 61	25		10 20 81	-25			
Other								
Emergency refugee and migration assistance fund								
BA	D82- 19	35,043		10 1 81				
BA	D82- 19A		100	1 22 82				35,143
Migration and refugee assistance								
BA	D82-241	40,000		4 23 82				40,000
BA	D82-242	10,000		4 23 82				10,000
U.S. bilateral science and technology agreements								
BA	D82-230	1,000		2 8 82				
BA	D82-230A		1,000	4 23 82				2,000
DEPARTMENT OF STATE								
TOTAL BA		86,766	1,100		-723			87,143
DEPARTMENT OF TRANSPORTATION								
Federal Aviation Administration								
Civil supersonic aircraft development termination								
BA	D82- 20	3,446		10 1 81	-3,400			46
Facilities & equip. (Airport & airway trust fund)								
BA	D82- 21	185,783		10 1 81				
BA	D82- 21A		164,730	1 22 82				350,513
Federal Railroad Administration								
Commuter rail transfer								
BA	D82-243	37,500		4 23 82				37,500
Grants to National Railroad Passenger Corp.								
BA	D82-217	93,400		11 6 81	-12,740	-80,660		
Maritime Administration								
Ship construction								
BA	D82-231	10,000		2 8 82				10,000
Research and Special Programs Administration								
Research and special programs								
BA	D82-220	1,050		1 22 82				1,050
DEPARTMENT OF TRANSPORTATION								
TOTAL BA		331,179	164,730		-16,140	-80,660		399,109

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
International affairs	BA	D82-196	109		10 29 81	-109			
Office of Revenue Sharing									
Salaries and expenses	BA	D82-197	26		10 29 81	-26			
State and local government fiscal assistance fund	BA	D82- 22	109,738		10 1 81	-6,939		676	103,475
	O	D82- 23	6,287		10 1 81				
	O	D82- 23A		14,635	3 18 82	-19,750		3,937	5,109
Federal Law Enforcement Training Center									
Construction	BA	D82- 24	4,200		10 1 81				4,200
Salaries and expenses	BA	D82-198	240		10 29 81	-240			
Bureau of Government Financial Operations									
New York City loan guarantee program	BA	D82-199	16		10 29 81	-16			
Chrysler Corporation loan guarantee program	BA	D82-200	23		10 29 81	-23			
Bureau of Alcohol, Tobacco and Firearms									
Salaries and expenses	BA	D82-201	1,039		10 29 81	-1,039			
Bureau of the Mint									
Expansion and improvements	BA	D82-132	70c		10 23 81			-70	
Internal Revenue Service									
Payment where energy credit exceeds liab. for tax	BA	D82-202	8		10 29 81	-8			
DEPARTMENT OF THE TREASURY TOTAL BA			115,469			-8,400		606	107,675
DEPARTMENT OF THE TREASURY TOTAL O			6,287	14,635		-19,750		3,937	5,109
ENVIRONMENTAL PROTECTION AGENCY									
Research and development	BA	D82-133	1,889		10 23 81	-1,889			
Abatement, control and compliance	BA	D82-134	8,062		10 23 81	-8,062			
Buildings and facilities	BA	D82-135	69		10 23 81	-69			
Hazardous substance response trust fund	BA	D82-136	3,360		10 23 81	-3,360			
	BA	0000							
ENVIRONMENTAL PROTECTION AGENCY TOTAL BA			13,380			-13,380			
NATIONAL AERONAUTICS & SPACE ADMINISTRATION									
Construction of facilities	BA	D82-137	2,800		10 23 81	-2,800			
	BA	0000							
NATIONAL AERONAUTICS & SPACE ADMINISTRATION TOTAL BA			2,800			-2,800			

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VETERANS ADMINISTRATION								
Medical and prosthetic research								
BA	D82-138	2,583		10 23 81	-2,583			
Medical admin. and misc. operating expenses								
BA	D82-139	921		10 23 81	-921			
Construction, major projects								
BA	D82-140	91,300		10 23 81		-33,800		57,500
BA	D82-141	7,877		10 23 81	-7,877			
Construction, minor projects								
BA	D82-142	907		10 23 81	-907			
BA	0000							
VETERANS ADMINISTRATION TOTAL BA		103,588			-12,288	-33,800		57,500
OTHER INDEPENDENT AGENCIES								
ACTION								
Operating expenses, domestic programs								
BA	D82- 62	2,896		10 20 81	-2,896			
Administrative Conference of the U. S.								
Salaries and expenses								
BA	D82-143	16		10 23 81	-16			
Advisory Committee on Federal Pay								
Salaries and expenses								
BA	D82-144	4		10 23 81	-4			
Arms Control and Disarmament Agency								
Arms control and disarmament agency								
BA	D82- 63	282		10 20 81	-282			
Board for International Broadcasting								
Salaries and expenses								
BA	D82- 64	252		10 20 81	-252			
Comm. for the Purchase From the Blind								
Salaries and expenses								
BA	D82- 65	10		10 20 81	-10			
District of Columbia								
Loans for capital outlay								
BA	D82-232	38,832		2 8 82				38,832
Equal Employment Opportunity Commission								
Salaries and expenses								
BA	D82-145	3,000		10 23 81	-3,000			
Federal Emergency Management Agency								
State and local assistance								
BA	D82-205	1,814		10 29 81	-1,814			
National flood insurance fund								
BA	D82-203	7,140		10 29 81	-7,140			
BA	D82-204	358,860		10 29 81	-358,860			
General Services Administration								
Consumer information center								
BA	D82- 68	26		10 20 81	-26			
Nat. Archives & Records Service-operating								
BA	D82- 66	140		10 20 81	-140			
Federal Property Resources Service-operating								
BA	D82- 67	748		10 20 81	-748			
Automated Data & Telecom. Service-operating								
BA	D82-206	120		10 29 81	-120			
Advisory Commission on Intergovt. Relations								
Salaries and expenses								
BA	D82- 69	10		10 20 81	-10			
Delaware River Basin Commission								
Salaries and expenses								
BA	D82- 70	2		10 20 81	-2			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

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Contribution to the Bel. River Basin Comm.								
BA	D82- 71	4		10 20 81	-4			
Interstate Commission on the Potomac River Basin								
Contrib. to Interst. Comm. on Potomac Riv. Basin								
BA	D82- 72	1		10 20 81	-1			
Susquehanna River Basin Commission								
Salaries and expenses								
BA	D82- 73	1		10 20 81	-1			
Contrib. to the Susquehanna River Basin Comm.								
BA	D82- 74	1		10 20 81	-1			
International Communication Agency								
Salaries & expenses								
BA	D82- 75	4,680		10 20 81	-4,680			
Center for cul. and tech. exch. bet. east & west								
BA	D82- 76	125		10 20 81	-125			
Interstate Commerce Commission								
Salaries and expenses								
BA	D82-146	648		10 23 81	-648			
Japan-U.S. Friendship Commission								
Japan-U.S. Friendship Commission trust fund								
BA	D82- 77	34		10 20 81	-34			
Marine Mammal Commission								
Salaries and expenses								
BA	D82- 78	11		10 20 81	-11			
National Capital Planning Commission								
Salaries and expenses								
BA	D82-207	19		10 29 81	-19			
National Foundation on the Arts & Humanities								
Nat. endowment for the arts: sal. & expenses								
BA	D82-147	11,208		10 23 81	-11,208			
Nat. endowment for the human.: sal. and expenses								
BA	D82-208	5,892		10 29 81	-5,892			
Nat. endowment for the human.: matching grants								
BA	D82-148	2,628		10 23 81	-2,628			
National Mediation Board								
Salaries and expenses								
BA	D82- 79	58		10 20 81	-58			
National Science Foundation								
Research and related activities								
BA	D82- 80	19,924		10 20 81	-19,924			
Scientific activities overseas								
BA	D82- 81	59		10 20 81	-59			
Science and engineering educ. activities								
BA	D82- 82	2,623		10 20 81	-2,623			
Neighborhood Reinvestment Corporation								
Payment to Neighborhood Reinvest. Corp.								
BA	D82- 83	181		10 20 81	-181			
Pennsylvania Avenue Development Corporation								
Salaries and expenses								
BA	D82-149	15		10 23 81	-15			
Public development								
BA	D82-150	239		10 23 81	-239			
Land acquisition and development fund								
BA	D82-151	42		10 23 81	-42			
BA	D82- 25	30,896		10 1 81	-10,000			
BA	D82- 25A			a 2 8 82				20,896
Selective Service System								
Salaries and expenses								
BA	D82- 84	192		10 20 81	-192			

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Small Business Administration									
Salaries and expenses	BA	D82-152	3,137		10 23 81	-3,137			
Business loan and investment fund	BA	D82-233	2,500		2 8 82				
	BA	D82-233A		2,500	5 18 82				5,000
Surety bond guarantees revolving fund	BA	D82-154	373		10 23 81	-373			
	BA	D82-234	3,000		2 8 82				3,000
Lease guarantees revolving fund	BA	D82-153	67		10 23 81	-67			
Smithsonian Institution									
Museum programs and related research	BA	D82-155	231		10 23 81	-231			
Restoration and renovation of buildings	BA	D82-156	145		10 23 81	-145			
Motor Carrier Ratemaking Study Commission									
Salaries and Expenses	BA	D82- 26	150		10 1 81				150
Pres. Com. for the Study of Ethical Probs. in Med.									
Salaries and expenses	BA	D82-221	262		1 22 82				262
Tennessee Valley Authority									
Tennessee Valley Authority fund	BA	D82-157	2,321		10 23 81	-2,321			
United States Railway Association									
Payments for purchase of Conrail securities	BA	D82-235	84,500		2 8 82				84,500
Water Resources Council									
Water resources planning	BA	D82- 85	42		10 20 81	-42			
OTHER INDEPENDENT AGENCIES TOTAL BA			590,361	2,500		-440,221			152,640
TOTAL BA			6,991,880	967,468		-4,914,675	-294,343	39,176	2,789,506
TOTAL O			6,287	14,635		-19,750		3,937	5,109

a. This report was transmitted solely to reflect technical adjustments to the previous report.

b. Off-budget.

c. This deferral was reported in error. Funds for this budget account were not withheld.

END OF REPORT

[FR Doc. 82-16843 Filed 6-21-82; 8:45 am]
BILLING CODE 3110-01-C

federal register

Tuesday
June 22, 1982

Part V

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Disqualification Penalties for Fraud and Misrepresentation, and Improved Recovery of Overpayments

FOOD AND NUTRITION SERVICE

7 CFR Parts 272, 273, and 276

Food Stamp Program; Disqualification Penalties for Fraud and Misrepresentation, and Improved Recovery of Overpayments

Note.—This document originally appeared in the Federal Register of Monday, June 21, 1982. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Food and Nutrition Service.

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This rule contains proposed regulations for the Food Stamp Program to implement certain provisions of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, enacted on August 13, 1981. These provisions are aimed at deterring Food Stamp Program abuse, and improving recovery of overpayments. This rulemaking also proposes related changes based on recommendations and requests for clarification received from State agencies.

DATE: Comments on this proposed rulemaking must be received on or before August 20, 1982 to be assured of consideration.

ADDRESS: Comments should be submitted to Thomas O'Connor, Supervisor, Policy and Regulations Section, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: Questions regarding this proposed rulemaking should be directed to Mr. O'Connor at the above address or by telephone at (703) 756–3429.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been classified "not major". The proposed rule will not have an annual effect on the economy of $100 million or more, nor is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. Because this proposed rule would not affect the business community, it would not result in 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 proposed rule has also been reviewed with regard to the requirements of Pub. L. 96–354, and the administrator of the Food and Nutrition Service has certified that the proposal does not have a significant economic impact on a substantial number of small entities. The proposal would implement those provisions of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, aimed at deterring Food Stamp Program abuse and improving recovery of overpayments. State and local welfare agencies would be affected to the extent that they administer the Program. Those most affected would be individuals participating in the Program who are found to have committed intentional misrepresentation or fraud, and households which received an overissuance.

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

Background

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, enacted on August 13, 1981) amended the Food Stamp Act of 1977 in numerous ways. This rulemaking contains proposed regulations implementing the provisions of the Reconciliation Act relating to the disqualification penalties for misrepresentation or fraud, and the improved recovery of overpayments. The Department issued interim final regulations on September 4, 1981 (at 46 FR 4471) implementing those provisions of the Reconciliation Act aimed at restraining the growth of the Food Stamp Program. Other provisions of the Reconciliation Act, those regarding a mandatory monthly reporting and retrospective accounting system, and a block grant program in the Commonwealth of Puerto Rico, are being addressed in separate rules.

This proposed rulemaking would implement the following provisions of the Reconciliation Act relating to the disqualification penalties for misrepresentation or fraud. First, the basis for disqualification is expanded by adding to the "fraud" offense the intentional making of false or misleading statements, misrepresentations, or the concealment or withholding of facts, as well as the commission of any act that constitutes a violation of any State food stamp statute. Second, the distinction in disqualification periods which may be imposed as a result of administrative hearings or court decisions is eliminated. Mandatory disqualification periods of 6 months for the first offense, 12 months for the second, and permanently for the third offense would be imposed against any individual found to have committed intentional misrepresentation or fraud, regardless of whether the determination was arrived at administratively or through a court of law. Third, State agencies are prohibited from increasing the benefits to the household of a disqualified person because of the disqualification. And fourth, the Department is required to promulgated regulations to ensure that information concerning disqualified individuals is forwarded to the Department.

This proposed rulemaking would also implement several statutory changes with regard to the improved recovery of overpayments. First, the provisions relating to repayment of fraudulent overissuances are expanded to include overissuances which occurred as a result of intentional misrepresentation. Second, the household of the disqualified individual, rather than the household member guilty of intentional misrepresentation or fraud, is held responsible for repaying the resultant overissuance and must agree to repayment in cash or to a reduction in its allotment. Third, State agencies are required to collect overissuances from those persons still participating in the Program by reducing future allotments in cases not the result of fraud, misrepresentation, or State agency error. Fourth, the amount by which State agencies can reduce the household's monthly allotment in the collection of overissuances not the result of fraud, misrepresentation, or State agency error is limited to 10 percent of the allotment or $10 per month, whichever would result in faster collection. And fifth, State agencies are allowed to retain 50 percent of the value of intentional misrepresentation claims collections and 25 percent of the value of the collection of claims not the result of fraud, misrepresentation, or State agency error.

I. Disqualification Penalties for Fraud and Misrepresentation

1. Income of Disqualified Persons

Under current Food Stamp Program regulations, the resources of a disqualified member continue to be counted in their entirety as available to

the household, and the income of the disqualified member is counted after a pro rata share (for the disqualified member) has been taken out. This policy has resulted in certain households receiving increased benefits when a household member is disqualified because the income which is not counted as available to the household may be substantial. The Omnibus Budget Reconciliation Act of 1981, however, prohibits any increase in benefits to the household of a person disqualified for intentional misrepresentation or fraud because of the disqualification. And, Congress has recommended that in addition to the existing regulatory language attempting to prohibited increases in household benefits due to the disqualification of a member for intentional misrepresentation or fraud, the Department should ". . . seriously consider attributing all of the income of the disqualified member to the household (with no pro rata share reduction), during the disqualification period." See S. Rep. No. 97–128, 97th Cong., 1st Sess., p. 57 (1981).

The Department considered two possible methods of preventing any participating household from receiving increased benefits when a member of the household has been disqualified for intentional misrepresentation or fraud. The first alternative considered was to count all of the disqualified member's income as available to the household, and to apply a penalty deduction to the household's allotment, such as a pro-rata or flat percentage reduction for the disqualified member(s). The second alternative considered was to count all of the disqualified member's income as available to the household, but to exclude the disqualified member(s) when determining the household's size for assigning a benefit level to the household, or for comparing the household's monthly income with the income eligibility standards.

The proposed regulations would incorporate the second alternative, which counts all of the disqualified member's income but excludes the disqualified member when determining the household's size. The household's size would be reduced according to the number of persons disqualified, and the household's eligibility and allotment level would be determined by applying that adjusted size and the household's income figures to the appropriate tables. For example, if the allotment of a four person household with a gross monthly income of $725 and a net monthly income of $478 was $90 per month, the disqualification of one person would result in a monthly allotment of $40 for the remaining household members. The disqualification of two persons from that same household would result in ineligibility for the two remaining household members.

Although both of the alternatives considered would effectively prevent any household from receiving increased benefits because of the disqualification of a household member, the Department believes that the proposed method is the most likely to deter future Program abuse. Since the household's size is reduced according to the number of disqualified members while all of the disqualified members' income is counted as available to the remaining household members, this method imposes a fairer penalty than the other possible alternatives considered. It is also the method which provides a more logical approach to the problem of ensuring that the household's benefit level is adjusted to reflect the disqualification of one or more household members. Since a recalculation of the household's monthly budget is needed, in most cases, to reflect the fraudulent activity which led to the disqualification, such as a household's failure to report a change in income, this method should not impose a burden on State agencies. And, the adoption of a method which involves the use of current procedures, rather than the introduction of a new procedure, would avoid increasing the administrative complexity of the Program. (See 7 CFR 273.11(c)).

2. Basis for Disqualification

In the current Food Stamp Program, an individual found to have committed fraud through an administrative hearing or by a court of appropriate jurisdiction is disqualified from Program participation for a specified period of time. The Food Stamp Program's regulations provide a definition of fraud to assist State agencies in determining through an administrative hearing whether or not fraud was committed. This definition identifies fraud as the commission of any action by an individual to knowingly, willfully and with deceitful intent obtain benefits to which the household is entitled. And, specifically mentioned as fraudulent actions under the definition are: making a false statement, concealing information, altering an ATP, using coupons to buy expensive or conspicuous nonfood items, using or possessing improperly obtained coupons or ATPs, or trading or selling coupons or ATPs.

The Omnibus Budget Reconciliation Act of 1981 expands the basis for "fraud" disqualifications in two ways. First, intentionally making false or misleading statements, or misrepresenting concealing or withholding facts is added as a distinct category of offense for which an individual can be disqualified. Second, the commission of any act that constitutes a violation of any State statute relating to the use of food stamps is added to the Food Stamp Act's existing category of offenses involving fraudulent actions.

The proposed rule would incorporate these statutory changes in the basis for disqualification by revising the current definition of fraud and adopting an additional definition of misrepresentation. The proposed rule would also replace the word "fraud" with "misrepresentation of fraud" wherever it occurs in the Program's fraud disqualification regulations at 7 CFR 273.16. Congress expanded the basis for disqualification in order to encourage the use of administrative fraud hearings, rather than prosecution by a court of law, for determining whether or not Program abuse has occurred. State agencies have been reluctant to pursue administrative fraud hearings in the past because they view findings of fraud to be under the jurisdiction of the legal system. The additional category of misrepresentation should encourage State agencies to pursue more cases of suspected Program abuse through administrative hearings because they would no longer have to prove fraud per se, but only intentional misrepresentation by the household. (See 7 CFR 273.16 (c) and (d)).

3. Disqualification Penalties

Current regulations mandate disqualification periods of three months for persons found to have committed fraud through an administrative hearing, and six to 24 months for persons found to have committed fraud by a court of appropriate jurisdiction. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) eliminates the distinction in disqualification periods between determinations of fraud arrived at through administrative hearings and court decisions, and increases the penalties for those found to have abused the Program. Section 112 of Pub. L. 97–35 amends section 6(b) of the Food Stamp Act of 1977 to require that any individual found to have committed fraud or misrepresentation in connection with the Food Stamp Program would be disqualified for six months for the first violation, 12 months for the second violation, and permanently for the third violation. The proposed rulemaking would, therefore, incorporate these statutory changes into the regulations

governing the Food Stamp Program. (See 7 CFR 273.16(b)).

4. Pursuit of Individual Cases

When the Department issued final regulations implementing certain segments of the 1980 Amendments to the Food Stamp Act of 1977 (Pub. L. 96–249) at 47 FR 17756, it decided to delay implementation of some previously proposed changes relating to claims processing. Action was delayed on these proposed changes to provide the Department an opportunity to reevaluate the issues involved in light of more recent legislation, the Omnibus Budget Reconciliation Act of 1981. One of these changes would have increased from $35 to $100 the level of alleged fraud cases which State agencies are required to handle through the fraud hearing system.

The proposed rulemaking would leave it to the State agency's discretion whether or not to pursue an individual case of alleged intentional misrepresentation or fraud. The Department has found that there exists differing State agency attitudes toward the handling of alleged Program violations and the merits of increasing the level for pursuit of such cases. In addition, there are a variety of factors that need to be considered when deciding whether to pursue an individual case, such as the amount involved, the quality of evidence available, and the cost of pursuing the case. Therefore, the Department has determined that it would be more appropriate for a State agency to decide whether to pursue cases of intentional misrepresentation or fraud on a case-by-case basis. (See 7 CFR 273.16(f)(1)).

5. Disqualification Hearings

The proposed rule would rename the administrative "fraud" hearing as an administrative "disqualification" hearing, and reorganize the provisions governing the conduct of such hearings. The change in name to disqualification hearings is necessary in order to clarify that these hearings would be the administrative mechanism for arriving at a determination that intentional misrepresentation has occurred as well as for their present use in determining if fraud has been committeed. The provisions governing the conduct of these administrative hearings have been slightly reorganzied to locate all of the procedures relating to local level hearings at the end of the section rather than scattered throughout. The purpose of this reorganization is to simplify this section of the regulations for the majority of State agencies which provide administrative hearings only at the State level.

The Department is proposing to eliminate the FNS-designed forms for notification of a local level hearing decision and advance notice of a scheduled State level hearing for appeal of a local level decision. These forms would be eliminated because the Department believes that the small number of State agencies (two) which provide administrative fraud hearings at the local level does not warrant the provision of model forms.

The Department is also proposing to provide State agencies the option of using the FNS-designed forms for advance notice of a scheduled State level hearing and notification of a State level hearing decision. State agencies are currently required to utilize the Form FNS–396, Advance Notice of Fraud Hearing, to provide notice of a scheduled State level hearing to the household member suspected of fraud. The Form FNS–394, Action Taken on Your Fraud Hearing (Notice of State Fraud Hearing Decision) is used to notify the household member of the hearing decision if the State level administrative fraud hearing finds that the household member committed fraud. The use of these forms is being made optional because the Department believes that State agencies should have the flexibility to develop forms which meet their needs. The State agency would develop its own set of forms based on the notification requirements for State level hearings contained in the Program's regulations. FNS would continue to provide model forms which the State agency could choose to use or modify to suit its particular needs. However, the State agency would no longer need to obtain FNS approval to modify these FNS-designed forms. (See 7 CFR 273.16(f)(2)).

6. Waiver of Right to Disqualification Hearing

A determination that fraud was committed, arrived at through an administrative fraud hearing or by a court of appropriate jurisdiction, is currently required before a State agency can disqualify an individual suspected of Program abuse. One State agency has requested that the Department consider shortening the disqualification process for those cases of suspected Program abuse which prosecutors have declined to prosecute or which the State agency determines do not warrant referral for prosecution, and which involve individuals who are willing to admit that they committed the act of which they are accused. Existing Food Stamp Program regulations at 7 CFR 273.16(d)(4) require that an administrative disqualification hearing be held even if the household member or its representative cannot be located or fails to appear at the hearing without good cause. The Department has decided that adoption of a procedure whereby an accused individual who admits the alleged abuse could waive his/her right to an administrative disqualification hearing would result in a more efficient disqualification hearing system.

The Department proposes to provide State agencies the option of allowing accused individuals to waive their right to administrative disqualification hearings. This option is intended to provide a mechanism which would be used on a State-wide basis and which would supplement, rather than substitute for, existing administrative disqualification hearing systems. State agencies which provide administrative disqualification hearings only at the State level would be limited to use of this option at that level. Those State agencies which provide a local disqualification hearing in some or all of their project areas with a right to appeal to a State level hearing would be allowed to utilize this option in the same project areas. An individual determined to have committed intentional misrepresentation or fraud and who has waived his/her right to an administrative disqualification hearing would not be allowed to appeal the disqualification subsequently imposed through either an administrative disqualification hearing or a fair hearing.

The household member suspected of intentional misrepresentation or fraud would be provided written notification of the possibility to waive his/her right to an administrative disqualification hearing. This notification would be included in the advance notice of a hearing which is provided to the accused individual. The State agency would also provide the household member with written notification of the mechanism for waiving his/her right to an administrative disqualification hearing at the same time. This notification would include the date by which the signed waiver must be received, a statement that the hearing will be conducted on the scheduled date unless the signed waiver is received by the specified date, that waiver of hearing would result in automatic disqualification and reduction of the household's allotment for the disqualification period, and a signature block for the accused individual. In order to provide the remaining

household members some degree of protection in those cases where the accused individual is not the head of household, the notice would also include a signature block for the head of household and require his/her signature. Although an accused individual's waiver of his/her right to an administrative disqualification hearing can be construed as an admission of the facts as presented by the State agency, this need not be the case. Therefore, the proposed regulations contain suggested language for State agencies to include in the notice so that such individuals could waive the hearing without admitting to a State agency's specific allegations. In addition, the household member would be informed of the name and phone number of the disqualification hearing official to contact should he/she not understand the charge(s) or the implications of waiving his/her right to an administrative disqualification hearing. And, the household member would be advised of the right to remain silent concerning the charge(s) and that anything said or signed by the individual could later be used in a court of law. The Department strongly encourages any State agency which chooses to exercise this option to submit the form which it develops to its State Attorney General's Office for concurrence on legal sufficiency.

Once the State agency receives a signed waiver of the right to an administrative disqualification hearing, the household member suspected of intentional misrepresentation or fraud would be disqualified from participation in the Program. The disqualification periods for individuals who waive their right to administrative hearings would be the same as those for persons found to have committed intentional misrepresentation or fraud through a disqualification hearing or prosecution in a court of law. And, the household member would be provided written notification of the disqualification prior to imposition of a disqualification penalty. The period of disqualification would begin with the first month which follows the date the household member receives notification of the disqualification. The State agency would also initiate collection of the claim which results from the overissuance caused by the household member's intentional misrepresentation or fraud by sending a written demand letter for restitution along with the notification of disqualification.

The proposed procedures were developed with a view towards adequately protecting the accused individuals' due process rights and, at the same time, reducing the amount of time and money which the State agency has to invest in such cases. Although the Department believes that the proposal would accomplish both of these objectives, it recognizes that some State agencies may choose not to take advantage of the option. The Department is especially anxious to receive comments on this proposal and any alternative methods for shortening the administrative disqualification process for accused individuals willing to admit guilt without imposing complex administrative rules on State agencies. (See 7 CFR 273.16(f)(3)).

7. Disqualification Reporting System

Section 112(b)(4) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) requires that the Department promulgate regulations to ensure that information concerning individuals disqualified for intentional misrepresentation or fraud is forwarded to the Department by State agencies for use in administering the misrepresentation and fraud provisions contained in the Food Stamp Act. The Senate Committee Report indicates that Congress intends that State agencies use this information in enforcing disqualifications against individuals who move from one State to another. See S. Rep. No. 97–128, p. 55.

The Department considered three alternative systems for the collection of information concerning individuals disqualified for misrepresentation or fraud. The first alternative considered was to require the reporting of specific information concerning each disqualification on an individual basis, using a specially designed form. The second alternative was to require the reporting of such information as a part of an already existing monthly, quarterly, or biennial report. And the third alternative considered was to establish an automated reporting system to receive the reports. The Department has decided to propose adoption of the third alternative because it avoids the problem of increasing the paperflow responsibilities on administering agencies posed by the first alternative as well as the potential for timelags in the reporting of the information concerning disqualifications inherent in the second. In addition, the chosen method has the advantage of enabling State agencies to readily access information concerning individuals disqualified in another political jurisdiction.

Under the proposed automated reporting system, State agencies would report information on individuals disqualified for intentional misrepresentation or fraud. All of the data submitted by State agencies would be stored in a specially designed computer program and be available to any State agency. The proposed national computer file could be set up so that a State agency could ascertain whether an individual has been disqualified in another State by simply referencing that person's name and social security number. Alternatively, the information in the national file could be made available to a State agency in hard-copy (printed reports), tape, or card medium. The method of access to the information would be a State agency option, allowing a State agency the flexibility to choose the available medium which best suits its particular needs. The State agency would be allowed to access the information for determining the eligibility of individual program applicants, and ascertaining the appropriate penalty to impose in a case under consideration. Information concerning past disqualifications would be especially helpful to State agencies in view of the tiered system of disqualification penalties recently enacted into law.

The State agency would be required to report specific information concerning an individual disqualified for misrepresentation or fraud in a format specified by FNS and within specific timeframes. The reporting requirement would cover any individual disqualified within that State, either through an administrative disqualification procedure or by a court of law. The specified format would ensure that sufficient information is received to identify the individual, the State in which the disqualification occurred, the offense which led to the disqualification, the effective date of the disqualification, and the disqualification penalty imposed. The State agency would report this information within 30 days of the date of the disqualification. These timeframes would allow State agencies either to report the disqualifications individually or to report on all the disqualifications which occured in the most recent 30 day period once a month.

The Department invites all comments on the proposed automated reporting system and would especially like to hear alternative suggestions. Those that address the problem of administrative feasibility would be especially welcome. (See 7 CFR 273.16(h)).

II. Improved Recovery of Overpayments

1. Categories of Claims against Households

Current regulations contain guidelines for State agencies to follow in determining whether to establish fraud and nonfraud claims against participants, and specify certain minimum requirements which State agencies must follow in handling these cases. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) expands the fraud claims provisions to cover intentional misrepresentation claims, and provides a specific method of collection for those claims not resulting from fraud, misrepresentation or State agency error. The proposed rulemaking would incorporate these statutory changes by expanding the category of fraud claims to include intentional misrepresentation claims, and differentiating those nonfraud claims as a result of State agency error from those caused by household misunderstanding. Therefore, the method of handling claims against households would depend on whether they resulted from inadvertent household error, intentional misrepresentation or fraud, or administrative error. (See 7 CFR 273.18(a)).

2. Criteria for Establishing Inadvertent Household and Administrative Error Claims

Existing regulations contain a 12-month time limit for establishing nonfraud claims. This time limit was intended to eliminate the administrative burden of documenting and computing errors that occurred more than a year prior to discovery. Several State agencies have pointed out, however, that this policy has resulted in other administrative burdens. Because there is no 12-month time limit for establishing a fraud claim, a claim being handled as a nonfraud claim prior to the determination of fraud by an administrative fraud hearing or court of law must be recalculated once the determination is obtained. In addition, this policy precludes a State agency billed for negligence by FNS from recovering that portion of its liability which households received more than 12 months before.

The proposed rulemaking would change the 12-month time limit for establishing nonfraud claims into a minimum requirement. Therefore, the State agency would be required, at a minimum, to take action on those claims for which 12 months or less have elapsed between the month an overissuance and the month the State agency discovered a specific case involving the overissuance. The State agency would have the option of taking action on those claims for which more than 12 months have elapsed. This new policy would also apply to both inadvertent household error and administrative error claims.

As part of the criteria for establishing a nonfraud claim contained in current Program regulations, the Department has provided specific instances of overissuances for which the State agency is prohibited from establishing a claim against the household. These instances involve errors relating to the system used to provide benefits to eligible households, such as State agency failure to insure that a household fulfilled certain procedural requirements. The proposed rulemaking would revise two of these instances and include them as examples of administrative errors for which a claim would be established against the household. Therefore, the State agency would establish a claim against the household if it continued to receive an allotment after its certification period expired or its allotment level was not reduced to reflect a change in its public assistance grant. The Department has decided that these two instances do not sufficiently differ from other instances of administrative error involving the assignment of an incorrect allotment to warrant not recovering the overissuance from the households. (See 7 CFR 273.18(b)).

3. Calculating Inadvertent Household and Administrative Error Claims

Under current Program rules, State agencies must exclude those months that are more than 12 months prior to the date the overissuance was discovered when calculating the amount of a nonfraud claim. The proposed rulemaking would change the 12-month limit for calculating the amount of the claim into a minimum requirement. This change is necessary in order for the method of calculating the amount of inadvertent household error and administrative error claims to conform with the revised requirements for establishing such claims. Therefore, the State agency would be required to calculate the amount of these claims based, at a minimum, on those months that are 12 months or less since the date an overissuance was discovered. The State agency would have the option of calculating the amount of the claim back to the month the error occurred, regardless of the length of time that elapsed until the error was discovered. (See 7 CFR 273.18(c)(1)).

4. Collecting Inadvertent Household Error Claims

Section 113 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) requires State agencies to collect inadvertent household error claims by reducing the household's monthly allotment. In addition, the amount by which State agencies can reduce the household's monthly allotment in such collections is limited to 10 percent of the allotment or $10 per month, whichever would result in faster collection. While Congress intends for State agencies to collect inadvertent household error claims from those persons still participating in the Program by reducing future benefits, it also believes that "* * * nothing would preclude the State from seeking to collect overissuances through other means * * *" from persons who no longer receive food stamps. See S. Rep. No. 97–128, p. 57.

The proposed rulemaking would incorporate these statutory changes by requiring State agencies to collect any inadvertent household error claims, regardless of the amount, from households still participating in the Program by reducing their monthly allotment. Prior to reduction, the household would be sent a written demand letter which informs it of the amount of food stamps to be recovered each month and of the availability of other methods of repayment. The household would also be allowed to repay in cash all at once or in monthly installments, in a downpayment of cash with monthly installments, or with food stamp coupons as partial or full payment. If the household does not respond within 30 days of receipt of the demand letter, the household's allotment would be reduced without further notice being provided. The amount of food stamps to be recovered each month would be the greater of 10 percent of the household's monthly allotment or $10 per month. For households not currently participating in the Program, State agencies would be required to collect inadvertent household error claims by sending the household a written demand letter which informs the household of how it may pay the claim. The household would be able to make cash payments on the claim in one lump sum and/or in regular installments, and the household would be allowed to give the State agency any food stamp coupons remaining from its prior participation as partial or full payment of the claim. If a nonparticipating household does not respond to the first demand letter, additional demand letters would be sent at reasonable intervals until the

household responded by paying or agreeing to pay the claim, or until the claim was suspended. The State agency could also pursue other appropriate collection actions against any household which fails to respond to a written demand letter. These provisions would provide State agencies with a widely accepted and effective method of collection for most of the overissuances which result from inadvertent error on the part of households. (See 7 CFR 273.18(d) and (g)).

Current regulations require that a fraud claim be handled as a nonfraud claim prior to the determination of fraud by an administrative fraud hearing or a court of appropriate jurisdiction. State agencies are allowed to postpone collection of a potential fraud claim being handled as a nonfraud claim if they are advised in writing that collection action will prejudice the case. State agencies are also allowed to postpone collection of fraud claims after an administrative determination that fraud has been committed if the legal representative prosecuting a member of the household for fraud advises, in writing, that collection action will prejudice the case.

The Department proposes to revise the claims collection sections by removing the requirement that State agencies obtain a written opinion that collection will prejudice the case in order to postpone collection action against the household. The claim against the household would be handled as an inadvertent household error claim prior to the determination of intentional misrepresentation or fraud, and State agencies would determine whether collection would prejudice the case against a household member referred for possible administrative disqualification or prosecution. This change applies to those claims being handled as inadvertent household error claims prior to administrative determinations of intentional misrepresentation or fraud as well as those claims resulting from activities that are being referred for prosecution in a court of law. (See 7 CFR 273.18(d)(1)(ii) and (d)(2)).

5. Collecting Intentional Misrepresentation or Fraud Claims

The regulations governing the collection of fraud claims require that disqualified individuals who wish to reenter the program after the period of disqualification must agree to repay the value of the food stamps fraudulently obtained. The disqualified individual signs a written agreement letter for restitution, and repayment is made through either a cash payment or a reduction in the household's allotment. If a disqualified individual agrees to make repayment in cash and fails to make the payments, the individual's household allotment is reduced.

Section 113 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) requires that the household of the disqualified individual repay in cash or by allotment reduction the overissuance which resulted from intentional misrepresentation or fraud. The House Report indicates Congressional intent that repayment begin as soon as a court or administrative disqualification determination is made, instead of after the period of disqualification has ended. See H.R. Rep. No. 97–196, 97th Cong., 1st Sess., p. 138 (1981).

The proposed rulemaking would shift the responsibility for repayment of intentional misrepresentation or fraud claims from the disqualified individual to the indivdual's household. The household would be sent a demand letter at the time of the disqualification, and allowed to choose a method of repayment. The household would be allowed to repay in cash all at once or in monthly installments, in a downpayment of cash with monthly installments, with food stamp coupons as partial or full payment, or through a reduction of its monthly allotment. If the household is currently participating in the Program and fails to respond within 30 days of receipt of the demand letter, the household's allotment would be reduced without further notice being provided. If a nonparticipating household fails to respond to the first demand letter, additional demand letters would be sent at reasonable intervals until the household responded by paying or agreeing to pay the claim, or until the State agency suspended collection action. The State agency could also pursue other appropriate collection actions against any household which fails to respond to a written demand letter. These collection procedures should significantly deter future abuse of the Food Stamp Program. (See 7 CFR 273.18(d)(2) and (g)).

The proposed regulations would also reinstate certain provisions governing the suspension of collection for fraud claims which were inadvertently deleted by the regulations issued on January 31, 1980, at 45 FR 7208. The January 31, 1980, regulations implemented provisions of Pub. L. 96–58, the 1979 Amendments to the Food Stamp Act of 1977. Section 5 of Pub. L. 96–58 provided that individuals subject to disqualification from Program participation for fraudulent conduct must agree to either a reduction in the household's food stamp allotment or to a repayment in cash in order to again participate in the Food Stamp Program. When issuing the regulations to implement this provision the Department omitted already existing provisions which dealt with the procedure for State agencies to follow when nonparticipating households fail to respond to demand letters, and the following three criteria for holding a fraud claim in suspense: (i) The household is financially unable to pay the claim, (ii) there is little likelihood that the State agency can collect or enforce collection of any significant sum from the household, and (iii) the cost of further collection action is likely to exceed the amount that can be recovered. The Department has decided to reinstate some of these provisions as well as to clarify that they apply only to households which are not currently participating in the Program. As before, fraud claims against currently participating households would be collected through allotment reduction unless the household agrees to another method of repayment. Two of the three criteria for suspending collection are being eliminated in order to provide for the possible collection of additional overissuances. Therefore, the State agency would suspend collection action of an established intentional misrepresentation or fraud claim only if the cost of further collection action is likely to exceed the amount that can be recovered. The proposed rulemaking would also make suspension a State agency option.

Under current Program rules, a claim is determined uncollectible after it is held in suspense for three years and the State agency is required to terminate collection action. The proposed rulemaking would make termination of claims a State agency option. This change is necessary in order for the termination procedure to be consistent with the revised suspension requirements and would allow State agencies to collect additional overissuances.

The Department believes that the additional flexibility which will result for State agencies as a result of these changes is warranted in view of the considerable experience and expertise they have obtained in the area of claims collection. (See 7 CFR 273.18 (d) and (e)).

6. Demand Letter for Overissuance

Under existing Program regulations, the State agency initiates collection of a nonfraud claim by sending the household a written demand letter and of a fraud claim by sending the disqualified individual a written agreement letter for restitution. The

Form FNS–437, Repayment of Extra Food Stamps (Demand Letter for Overissuance—Non Fraud), is used to inform the household against which a nonfraud claim has been established of the claim and the possible methods for repayment. Similarly, the Form FNS–397, Food Stamp Fraud Repayment Agreement, is sent to an individual against which a fraud claim has been established to provide notice of the need to begin restitution in order to avoid continuing the period of disqualification and of the possible methods for doing so. While the State agency is required to utilize the FNS-designed model forms, it can request FNS approval for deviations to meet its specific needs.

The Department proposes to eliminate the Form FNS–397 (Fraud Repayment Agreement), to revise the Form FNS–437 (Demand Letter for Nonfraud Overissuance) to cover all three types of claims contained in this rulemaking, and to provide State agencies the option of using the FNS-designed form. FNS would provide a model "universal" demand letter for overissuance which the State agency could choose to send the household against which a claim has been established, regardless of whether the claim resulted from an overissuance due to an inadvertent household error, a determination of intentional misrepresentation or fraud, or an administrative error on the part of the State agency. This demand letter for overissuance would inform households of the possible methods for repaying the various types of claims as well as the amount of food stamps to be recovered each month if the State agency imposes allotment reduction to collect an inadvertent household error or intentional misrepresentation or fraud claim. The demand letter would also inform the household that it may request renegotiation of the repayment schedule, and it would provide a signature block. Those State agencies which choose not to utilize the FNS-designed demand letter for overissuance would develop their own forms based on the requirements for collecting claims contained in the Program's regulations. Alternatively, State agencies could modify the model form for demanding restitution provided by FNS to suit their particular needs, however, the State agency would no longer need to obtain FNS approval to modify this particular FNS-designed form. The Department believes that this new approach is consistent with the Administration's desire to further simplify the management responsibilities of administering agencies, is warranted by the proposed changes in collection procedures for the various types of claims, and would provide State agencies the flexibility to develop forms which best suit their particular needs. (See 7 CFR 273.18(d)(3)).

7. Other Collection Actions

Current Food Stamp Program regulations allow State agencies to initiate court action to obtain repayment of an overissuance which resulted from fraud. The regulations do not, however, address the issue of pursuing other collection actions to collect either fraud or nonfraud claims. Several State agencies have requested authority to pursue collection of all types of claims through other methods of collection, such as turning the claims over to professional collection agencies. The proposed rulemaking would allow and, indeed, encourage State agencies to initiate other collection actions, as appropriate, to obtain repayment of a claim. However, the Department believes that, at a minimum, State agencies should initiate collection of claims by sending the household a written demand letter in accordance with Program rules. If the household does not respond to the State agency's written demand letter, the State agency may choose to take other collection actions against the household. (See 7 CFR 273.18(d)(4)).

8. Suspending Inadvertent Household and Administrative Error Claims

Procedures now in use require State agencies to suspend collection of a nonfraud claim if no collection action was initiated because the claim has been collected through offset, the total amount of the claim is less than $35, or the household cannot be located. If collection action was initiated, State agencies are required to suspend collection when: (i) The household is financially unable to pay the claim; (ii) there is little likelihood that the household will pay the claim, (iii) the household cannot be located, or (iv) the cost of further collection action is likely to exceed the amount that can be recovered. State agencies are allowed, however, to use an uncollectible claim to offset restored benefits.

The proposed rulemaking would eliminate two of the suspension criteria, make suspension of inadvertent household and administrative error claims a State agency option, and clarify that suspension does not apply to claims established against currently participating households for an overissuance due to inadvertent household error. The Department has decided that two of the existing suspension criteria are already included under the broader category of the criterion that provides for suspension when the cost of further collection action is likely to exceed the amount that can be recovered, and that their elimination would simplify the claims suspension process. And, since Congress has provided for allotment reduction to collect inadvertent household error claims, the Department believes that suspending collection of such claims against currently participating households would be unwarranted. Therefore, the proposal allows State agencies to suspend collection action of all administrative error claims and of those inadvertent household error claims established against nonparticipating households only when the household cannot be located or the cost of further collection action is likely to exceed the amount that can be recovered. And, as mentioned above, State agencies would no longer be required to terminate collection of a claim after it is held in suspense for three years. (See 7 CFR 273.18(e)).

9. Changes in Household Composition

State agencies are currently required to initiate collection action for nonfraud claims against the head of the household or against the individual who was head of the household at the time of the nonfraud claim. If the head of the household is no longer living or cannot be located, the State agency initiates collection action against the household containing a majority of the individuals who were household members at the time the error occurred. For fraud claims, State agencies are currently required to initiate collection action against the individual found to have committed fraud. If the household member found guilty of fraud moves, resulting in a change in household membership, the State agency initiates collection action against the household currently containing the fraudulent individual.

As discussed earlier, the proposed rulemaking would shift the responsibility for repayment of intentional misrepresentation or fraud claims from the disqualified individual to the individual's household. The proposal would also hold the household responsible for repayment of inadvertent household error or administrative error claims. Therefore, the Department is proposing to require State agencies to initiate collection action if a change in household membership occurs against the household containing a majority of the individuals who were household

members at the time of the activity which resulted in the overissuance. This change would ensure that, regardless of the type of claim, those persons who most benefited from the overissuance are held responsible for repayment. This provision will apply to claims only. The disqualification penalites, on the other hand, will apply only to the household in which the disqualified individual(s) currently reside. (See 7 CFR 273.18(f)).

10. Compromising Claims

The Program's regulations currently require State agencies to compromise any claim if the amount cannot be liquidated within three years. A claim is compromised by reducing it to an amount that will allow the household to make restitution within a three year period. The proposed rulemaking would make compromising of claims a State agency option. This would allow State agencies to collect the full amount of a claim even if it requires collection for more than three years. (See 7 CFR 273.18(g)).

11. $10 Minimum Benefit Level

Current regulations provide a minimum monthly allotment of $10 for all eligible one- and two-person households. A State agency has requested clarification of whether the $10 minimum allotment holds precedence over the reduction of a household's allotment for repayment of a claim. Since the amount of a household's monthly allotment is established before the determination is made concerning the reduction of the allotment for recoupment of any overissuances, the $10 minimum benefit level does not apply to the allotment after it has been reduced. The Department is, therefore, proposing language to clarify that the $10 minimum benefit level applies to the amount of a household's allotment prior to reduction for claims collection. This proposed language is contained in the provision governing the collection of inadvertent household error and intentional misrepresentation or fruad claims through allotment reduction. (See 7 CFR 273.18(g)(3)).

12. State Share of Collected Claims

State agencies are currently allowed to retain 50 percent of the value of claims collected from persons who have committed fraud, and required to return to the Federal Government all of the funds collected from nonfraud claims. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) allows State agencies to also retain 50 percent of the value of intentional misrepresentation claim collections and 25 percent of the value of inadvertent household error claim collections. Although the Department, on June 1, 1982, at 47 FR 23786, issued a public notice of the implementation of the 25 percent State share of collected inadvertent household error claims, the proposed rulemaking would incorporate these statutory changes into the Food Stamp Program's regulations. The ability of State agencies to retain these additional funds should provide them an additional incentive to pursue the collection of these claims.

The Department is proposing amendatory language to clarify that the 50 percent retention is also applicable to that portion of a claim collected prior to a determination that intentional misrepresentation of fraud has occurred. Under the proposed regulations, an administrative disqualification hearing official or a court of appropriate jurisdiction would determine that a household member committed intentional misrepresentation or fraud before such a claim could be established. Prior to such a determination, the claim would be handled as an inadvertent household error claim for collection purposes, and the State agency would retain 25 percent of the amount collected. Once a determination of intentional misrepresentation or fraud was obtained, the State agency would retain additional funds to represent the difference between the two retention rates on the amount already recovered. The State agency would include a note in the remarks section of the Form FNS–209, Status of Claims Against Households, which shows the additional amounts being retained on amounts already recovered as a result of the change in status of the claim.

The proposed rule would also revise the timeframes for submission of the Form FNS–209, Status of Claims against Households. State agencies are currently required to submit monthly a Form FNS–209, which reports the amount of funds recovered from all types of overissuances. The State agency's letter of credit is then adjusted quarterly to reflect the value of recovered funds which the State agency must return to the Federal Government. The Department is proposing to require a quarterly submission of the FNS–209, rather than monthly, to coincide with the letter of credit adjustment. This change would simplify State agency recordkeeping systems as well as reduce their present reporting requirements. (See 7 CFR 273.18(h)).

13. Overpayment of Claims

Current regulations do not address the issue of appropriate action for State agencies to follow when a household has overpaid a claim. Overpayment of a claim could occur, for example, when a household which has made payment on a claim requests a fair hearing on the amount of the claim and the hearing authority determines that the amount of the claim is less than has been paid by the household. Similarly overpayment could occur when payment was made on a claim prior to a legal challenge of the administrative disqualification which led to the claim, and the court action results in a reversal of the administrative determination that the individual committed intentional misrepresentation or fraud. Other instances where overpayment of a claim could occur in include administrative error in calculating the amount of a claim or household error in submitting payment.

The Department proposes to correct this omission by requiring State agencies to pay households any amounts which has been overpaid on a claim. The method of payment would be left to the State agency's discretion, though the Department emphasize that consideration should be given to the household's circumstances. For example, households no longer participating in the Program would have to be provided cash payments. Participating households would be paid in cash or with food stamps. The proposed rulemaking clarifies that if payment is made from funds collected through overissuance recoveries the State agency must report the payment on the Form FNS–209, Status of Claims Against Households. In addition, the State agency must identify on the Form FNS–209 any claims for which is retained funds but later paid the household for an overpayment. The State agency would show the amounts which were paid to households for overpaid claims out of overissuance recoveries and identify those overpaid claims for which funds had previously been retained by including notes in the remarks section of the FNS–209. (See 7 CFR 273.18(h)(4)).

14. Destruction of Collected Coupons

Existing regulations do not address the subject of disposal for food stamp coupons accepted as payment for claims. The proposed rule would address this issue by clarifying that any coupons or coupon books collected from households as payment for claims must be destroyed. State agencies would destroy such coupons in the same manner that improperly manufactured or mutilated coupons are destroyed under

current practices. (See 7 CFR 273.18(h)(6)).

15. Interstate Claims Collection

In some instances where households have moved out of the area under a State agency's jurisdiction, action has not been taken to collect overissuances to the household which occurred while it was still under the State agency's jurisdiction. A number of State agencies have requested clarification of their authority to initiate or continue collection action against households which have moved out of their jurisdiction. The proposed rule would provide clear authority and encourage State agencies to pursue such overissuances across the boundaries of their jurisdictions.

In cases where the State agency which overissued benefits to the household does not take prompt action to collect, the proposed rule would encourage the State agency for the area into which the household has moved to initiate action to collect. Prior to initiating action to collect such overissuances, the State agency for the area into which the household has moved would be required to contact the State agency which overissued benefits to ascertain that it does not intend to pursue prompt collection.

The proposed rule would require that the State share of collected claims (as provided at 7 CFR 273.18(h)) would be retained by the State agency which actually collects the overissuance. The Department intends that the availability of these funds provide additional incentive to pursue collection of claims in these situations. (See 7 CFR 273.18(k)).

III. Implementation

The Department proposes that State agencies implement these regulations no later than the first day of the month 120 days after publication. The State agency may wish to implement these regulations on the first day of the next yearly quarter. This period should provide sufficient time to amend food stamp handbooks and forms, make any necessary changes in data processing systems and administrative procedures, train eligibility workers, and inform food stamp recipients. (See 7 CFR 272.1(g)(1)).

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food and nutrition service, Food stamps, Grant programs-social programs, Records, Reporting requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food and nutrition service, Fraud, Grant programs-social programs, Penalties, Records, Reporting requirements, Social security, Students.

7 CFR Part 276

Administrative practice and procedure, Food and nutrition service, Food stamps, Fraud, Grant programs-social programs, Penalties.

Accordingly, it is proposed that 7 CFR Parts 272, 273, and 276 be amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, a new subparagraph is added to paragraph (g) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

( ) *Amendment* . State agencies shall implement the disqualification penalties for fraud and misrepresentation, and the improved recovery of overpayments provisions contained in Amendment —— no later than the first day of the month 120 days following publications. FNS shall return to each State agency 50 percent of the value of all funds collected or allotments recovered on intentional misrepresentation claims beginning the day that the State agency implements the provisions contained in this amendment.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.1, paragraph (7) of paragraph (b) is revised to read as follows:

§ 273.1 Household concepts.

* * * * *

(b) *Nonhousehold members.* * * *

(7) *Disqualified individuals or ineligible aliens.* Individuals disqualified for misrepresentation or fraud as set forth in § 273.16, or persons disqualified for failure to obtain social security numbers as set forth in § 273.6, or ineligible aliens determined as such in accordance with § 273.4.

* * * * *

3. In § 273.8, paragraph (j) is revised to read as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(j) *Resources of nonhousehold members.* The resources of nonhousehold members, as defined in § 273.1(b), shall not be counted as available to the household unless the member is disqualified from the program for misrepresentation or fraud in accordance with § 273.16, or for failing to comply with the requirement to provide an SSN in accordance with § 273.6, or is an ineligible alien who would be considered a household member if not for his or her ineligible alien status in accordance with § 273.4.

4. In § 273.9, paragraph (b)(3) is revised to read as follows:

§ 273.9 Income and deductions.

* * * * *

(b) *Definition of income.* * * *

(3) The earned or unearned income of an individual disqualified from the household for misrepresentation or fraud in accordance with § 273.16 shall continue to be attributed in their entirety to the remaining household members. However, the earned or unearned income of individuals disqualified from households for failing to comply with the requirement to provide an SSN in accordance with § 273.6, or for being an ineligible alien in accordance with § 273.4 shall continue to be counted as income, less a pro rata share for the individual. Procedures for calculating this pro rata share are described in § 273.11(c).

* * * * *

5. In § 273.11, paragraph (c) is revised to read as follows:

§ 273.11 Action on households with special circumstances.

* * * * *

(c) *Treatment of income and resources of disqualified members.* Individual household members may be disqualified for intentional misrepresentation or fraud, for refusal to obtain or provide an SSN, or for being an ineligible alien. During the period of time that such household members are ineligible, the eligibility and benefit level of any remaining household members shall be determined in accordance with the procedures outlined in this section.

(1) *Disqualification for misrepresentation or fraud.* The eligibility and benefit level of any remaining household members of a household containing individuals disqualified for intentional misrepresentation or fraud shall be determined as follows:

(i) *Income, resources, and deductible expenses.* The income and resources of the household member(s) disqualified for intentional misrepresentation or fraud shall continue to count in their entirety, and the entire household's allowable earned income, standard,

medical, dependent care, and excess shelter deductions shall continue to apply to the remaining household members.

(ii) *Eligibility and benefit level.* An individual disqualified for intentional misrepresentation or fraud shall not be included when determining the household's size for the purposes of assigning a benefit level to the household or of comparing the household's monthly income with the income eligibility standards. The State agency shall ensure that no household's coupon allotment is increased as a result of the disqualification of one or more household member for intentional misrepresentation or fraud.

(2) *Disqualification for others causes.* The eligibility and benefit level of any remaining household members of a household containing individuals disqualified for refusal to obtain or provide an SSN, or for being an ineligible alien shall be determined as follows:

(i) *Resources.* The resources of such disqualified members shall continue to count in their entirety to the remaining household members.

(ii) *Income.* A pro rata share of the income of such disqualified members shall be counted as income to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the disqualified member's income and dividing the income evenly among the household members, including the disqualified members. All but the disqualified member's share is counted as a deductible shelter expense for the remaining household members.

(iii) *Deductible expenses.* The 18 percent earned income deduction shall apply to the prorated income earned by such disqualified members which is attributed to their households. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the disqualified members shall be divided evenly among the household's members, including the disqualified members. All but the disqualified members' share is counted as a deductible shelter expense for the remaining household members.

(iv) *Eligibility and benefit level.* Such disqualified members shall not be included when determining their household's sizes for purposes of assigning a benefit level to the households or for purposes of comparing the household's monthly incomes with the income eligibility standards.

(3) *Reduction or termination of benefits within the certification period.* Whenever an individual is disqualified within the household's certification period, the State agency shall determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information in the case file.

(i) *Disqualification for misrepresentation or fraud.* If a household's benefits are reduced or terminated within the certification period because one of its members was disqualified for intentional misrepresentation or fraud, the State agency shall notify the remaining members of their eligibility and benefit level at the same time the disqualified member is notified of his or her disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits.

(ii) *Disqualification for other causes.* If a household's benefits are reduced or terminated within the certification period because one or more of its members refused to obtain or provide an SSN, or is an ineligible alien, the State agency shall issue a notice of adverse action in accordance with § 273.13(a)(2) which informs the household of the disqualification, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the household must take to end the disqualification.

* * * * *

6. Section 273.16 is revised to read as follows:

§ 273.16 Disqualification for misrepresentation and fraud.

(a) *Administrative responsibility.* The State agency shall be responsible for investigating any case of alleged intentional misrepresentation or fraud, and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction in accordance with the procedures outlined in this section. Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of either misrepresentation or fraud as defined in paragraphs (c) and (d) of this section. The State agency may initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual. The disqualification period for nonparticipants at the time of the administrative disqualification or court decision shall be deferred until the individual applies for and is determined eligible for program benefits.

(b) *Disqualification penalties.* Individuals found to have made an intentional misrepresentation or committed fraud either through an administrative disqualification hearing or by a court of appropriate jurisdiction shall be ineligible to participate in the program for six months for the first violation, 12 months for the second violation, and permanently for the third violation. However, one or more fraud disqualifications which occurred prior to the implementation of these penalties shall be considered as only one previous disqualification when determining the appropriate penalty to impose in a case under consideration. If a court fails to impose a disqualification period for the intentional misrepresentation or fraudulent act, the State agency shall impose the disqualification penalties specified in this section unless it is contrary to the court order. State agencies shall disqualify only the individual found to have made the intentional misrepresentation or committed fraud, and not the entire household. The remaining household members shall agree to make restitution in cash or the household's monthly allotment shall be reduced. If the remaining household members agree to make cash restitution but fail to do so, the State agency shall impose an allotment reduction on the household's monthly allotment. All restitutions shall be made in accordance with established procedures for cash repayment, allotment reduction, or coupons for repayment.

(c) *Definition of misrepresentation.* For purposes of determining through administrative disqualification hearings whether or not intentional misrepresentation was made, misrepresentation shall consist of intentionally either (1) making a false or misleading statement or (2) misrepresenting, concealing, or withholding facts in order to obtain benefits to which the household is not entitled.

(d) *Definition of fraud.* For purposes of determining through administrative disqualification hearings whether or not intentional fraud was committed, fraud shall consist of intentionally committing any action that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use of food stamps in order to use, present, transfer, acquire, receive, or possess food stamp coupons or ATPs to which the household is not entitled.

(e) *Notification to applicant households.* The State agency shall inform the household in writing of the disqualification penalties for intentional misrepresentation or fraud each time it applies for program benefits. The penalties shall be in clear, prominent, and boldface lettering on the application form.

(f) *Administrative disqualifications.* (1) Each State agency shall establish a system for conducting administrative disqualifications for intentional misrepresentation or fraud which conforms with the procedures outlined in this section. FNS shall exempt any State agency from the requirement to establish an administrative disqualification system if the State agency has already entered into an agreement with the State's Attorney General's Office or, where necessary, with county prosecutors. The agreement shall provide for prosecution of both misrepresentation and fraud cases, and that prosecution will be pursued in cases where appropriate. This agreement shall include information on how, and under what circumstances, cases will be accepted for possible prosecution and any other criteria set by the prosecutor for accepting cases for prosecution, such as a minimum amount of overissuance which resulted from misrepresentation or fraud. FNS shall also exempt any State agency from the requirement to establish an administrative disqualification system if there is a State law that requires the referral of such cases for prosecution and if the State agency demonstrates to FNS that it is actually referring cases for prosecution and that prosecutors are following up on the State agency's referrals. Any State agency exempted from the requirement to establish an administrative disqualification system in accordance with these regulations shall refer cases of alleged misrepresentation or fraud for prosecution in accordance with its agreement with prosecutors, if one is in effect, or State law. FNS may require a State agency to establish an administrative disqualification system if it determines that the State agency is not promptly or actively pursuing suspected misrepresentation or fraud claims through the courts.

(2) Each State agency shall base administrative disqualifications for intentional misrepresentation or fraud on the determinations of hearing authorities arrived at through administrative disqualification hearings or on determinations reached by courts of appropriate jurisdiction, except that any State agency has the option of allowing accused individuals to waive their rights to administrative disqualification hearings in accordance with § 273.16(f)(3).

(i) *Consolidation of administrative disqualification hearing with fair hearing.* The State agency may combine a fair hearing and an administrative disqualification hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the household receives prior notice that hearings will be combined. If the disqualification hearing and fair hearing are combined, the State agency shall follow the timeframes for conducting disqualification hearings.

(ii) *Disqualification hearing procedures.* (A) State agencies have the option of using the same hearing officials for disqualification hearings and fair hearings or designating hearing officials to conduct only disqualification hearings.

(B) The provisions of § 273.15 (m), (n), (o), (p), and (q)(1) are also applicable for disqualification hearings.

(C) At the disqualification hearing, the hearing official shall advise the household member or representative that they may refuse to answer questions during the hearing.

(D) Within 90 days of the date the household member is notified in writing that a State or local hearing initiated by the State agency has been scheduled, the State agency shall conduct the hearing, arrive at a decision and initiate administrative action which will make the decision effective. The household member or representative is entitled to a postponement of up to 30 days. If the hearing is postponed, the above time limits shall be extended for as many days as the hearing is postponed.

(E) The State agency shall publish clearly written rules of procedure for disqualification hearings, and shall make these procedures available to any interested party.

(iii) *Advance notice of hearing.* (A) The State agency shall provide written notice to the household member suspected of intentional misrepresentation or fraud at least 30 days in advance of the date a disqualification hearing initiated by the State agency has been scheduled. The notice shall be mailed certified Mail-Return Receipt Requested, and shall contain at a minimum:

(*1*) The date, time, and place of the hearing;

(*2*) the charge(s) against the household member;

(*3*) A summary of the evidence, and how and where the evidence can be examined;

(*4*) A warning that the decision will be based solely on information provided by the food stamp office if the household member fails to appear at the hearing;

(*5*) A warning that a determination of intentional misrepresentation or fraud will result in a six-month disqualification for the first violation, 12-month disqualification for the second violation, and permanent disqualification for the third violation, and a statement of which penalty the State agency believes is applicable to the case scheduled for a hearing;

(*6*) A listing of the household member's right as contained in § 273.15(p);

(*7*) A statement that the hearing does not preclude the State of Federal Government from prosecuting the household member for intentional misrepresentation or fraud in a civil or criminal court action or from collecting the overissuances;

(*8*) A statement that the individual can call the food stamp office to get the name and phone number (if available) of someone who can give free legal advice. If free legal advice is not available, the food stamp office shall provide, when called, the phone number of a lawyer referral service of the local bar association;

(B) A copy of the State agency's published hearing procedures shall be attached to the 30-day advance notice.

(C) Each State agency shall develop an advance notice form which contains the information required by this section. A model form for providing advance notice of a scheduled hearing is available from FNS for use by any State agency.

(iv) *Scheduling of hearing.* The time and place of the hearing shall be arranged so that the hearing is accessible to the household member suspected of intentional misrepresentation or fraud. If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if intentional misrepresentation or fraud was committed based on clear and convincing evidence. If the household member is found to have committed fraud but a hearing official later determines that the household member or representative had good cause for not appearing, the previous decision shall no longer remain valid and the State

agency shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. The household member has 10 days from receipt of the notice of the disqualification decision to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record.

(v) *Participation while awaiting a hearing.* A pending disqualification hearing shall not affect the individual's or the household's right to be certified and participate in the program. Since the State agency cannot disqualiy a household member for intentional misrepresentation or fraud until the hearing official finds that the individual has committed intentional misrepresentation or fraud, the State agency shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household. For example, if the misstatement or action for which the household member is suspected of intentional misrepresentation or fraud does not affect the household's current circumstances, the household would continue to receive its allotment based on the latest certification action or be recertified based on a new application and its current circumstances. However, the household's benefits shall be terminated if the certification period has expired and the household, after receiving its notice of expiration, fails to reapply. The State agency shall also reduce or terminate the household's benefits if the State agency has documentation which substantiates that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of intentional misrepresentation or fraud and the resulting disqualification hearing) and the household fails to request a fair hearing and continuation of benefits pending the hearing. For example, the State agency may have facts which substantiate that a household failed to report a change in its circumstances even though the State agency has not yet demonstrated that the failure to report involved an intentional act of misrepresentation or fraud.

(vi) *Criteria for determining intentional misrepresentation or fraud.* The hearing authority shall base the determination of intentional misrepresentation or fraud on clear and convincing evidence which demonstrates that the household member(s) willfully intended to misrepresent or commit fraud, as defined in paragraphs (c) and (d) of this section.

(vii) *Decision format.* The hearing authority's decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent FNA regulation, and respond to reasoned arguments made by the household member or representative.

(viii) *Imposition of disqualification penalties.* If the hearing authority rules that the household member has committed intentional misrepresentation or fraud, the household member shall be disqualified in accordance with the disqualification periods specified in paragraph (b) of this section beginning with the first month which follows the date the household member receives written notification of the hearing decision. However, if the act of intentional misrepresentation or fraud which led to the disqualification occurred prior to the implementation of the disqualification periods specified in paragraph (b) of this section, the household member shall be disqualified in accordance with the disqualification periods in effect at the time of the offense. The same act of intentional misrepresentation or fraud which occurred over a period of time shall not be separated so that separate penalties can be imposed. No further administrative appeal procedure exists after an adverse State level hearing. The determination of intentional misrepresentation or fraud made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

(ix) *Notification of hearing decision.* (A) If the hearing official finds that the household member did not commit intentional misrepresentation or fraud, the State agency shall provide a written notice which informs the household member of the decision.

(B) If the administrative disqualification hearing official finds that the household member committed intentional misrepresentation or fraud, the State agency shall mail a written notice to the household member prior to disqualification. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11(c). In addition, the notice shall inform the household member of the date disqualification will take effect. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until such time as the individual again applies for and is determined eligible for program benefits. A written demand letter for restitution, as described in § 273.18(d)(3), shall also be sent.

(C) Each State agency shall develop a form for notifying individuals that they have been found by an administrative disqualification hearing to have committed intentional misrepresentation or fraud. The form shall contain the information required by this section. A model form for notifying individuals of an adverse hearing decision is available from FNS for use by any State agency.

(x) *Local level hearings.* (A) the State agency may choose to provide administrative disqualification hearings at the local level in some or all of its projects areas with a right to appeal to a State level hearing. If a local level disqualification hearing determines that a household member committed intentional misrepresentation or fraud, the notification of hearing decision, as described in paragraph (f)(2)(ix) of this section, shall also inform the household member of the right to appeal the decision within 15 days after the receipt of the notice, the date disqualification will take effect unless a State level hearing is requested, and that benefits will be continued pending a State level hearing if the household is otherwise eligible. If the household member appeals the local level decision, the advance notice of hearing, as described in paragraph (f)(2)(iii) of this section, shall be provided at least 10 days in advance of the scheduled State level hearing and shall also inform the household member that the local hearing decision will be upheld if the household or its representative fails to appear for the hearing without good cause. When a local level decision is appealed, the State agency shall conduct the State level hearing, arrive at a decision, and initiate administrative action which will make the decision effective within 60 days of the date the household member appealed its case. The prior decision shall not be taken into consideration in a new hearing. In all other respects, local level disqualification hearings shall be handled in accordance with the procedures specified in this section for State level hearings.

(B) The State agency shall develop appropriate forms which contain the information required by this section for

notification of a local level hearing decision and advance notice of a scheduled State level hearing for appeal of a local level decision.

(3) Each State agency shall have the option of allowing accused individuals to waive their rights to an administrative disqualification hearing. For State agencies whch choose the option of allowing individuals to waive their rights to an administrative disqualification hearing, the procedures are as follows:

(i) *Advance notification.* (A) The State agency shall provide written notification to the household member suspected of intentional misrepresentation or fraud of the possibility to waive his/her right to an administrative disqualification hearing. This notitification shall be included in the advance notice of a hearing which is provided to the accused individual at least 30 days prior to the date a disqualification hearing initiated by the State agency has been scheduled.

(B) The written notification provided to the household member which informs him/her of the possibility to waive the administrative disqualification hearing shall include, at a minimum:

(*1*) The date that the signed waiver must be received by the State agency to avoid the holding of the hearing on the scheduled date and a signature block for the accused individual, along with a statement that the head of household must also sign the waiver if the accused individual is not the head of household, with an appropriate designated signature block;

(*2*) A statement of the accused individual's right to remain silent concerning the charge(s), and that anything said or signed by the individual concerning the charge(s) can be used against him/her in a court of law;

(*3*) The fact that a waiver of the disqualification hearing will result in an automatic disqualification, and an allotment reduction for the period of disqualification;

(*4*) An opportunity for the accused individual to specify whether or not he/she admits to the facts as presented by the State agency. This opportunity shall consist of the following statements, or statements developed by the State agency which have the same effect, and a method for the individual to designate his/her choice:

(*i*) I admit to the facts as presented, and understand that a disqualification penalty will be imposed if I sign this waiver; and

(*ii*) I do not admit that the facts as presented are correct. However, I have chosen to sign this waiver and understand that a disqualification penalty will result;

(*5*) The name and phone number of the disqualification hearing official responsible for resolving his/her case, and that the accused individual should contact that person to discuss the case if he/she does not understand the charges or the implications of waiving his/her right to an administrative disqualification hearing; and

(6) The fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim.

(C) The State agency shall develop an advance notice of hearing form, as described in paragraph (f)(2)(iii) of this section, which also contains the information required by this section for notifying a household member suspected of intentional misrepresentation or fraud of the possibility to waive his/her right to an administrative disqualification hearing.

(ii) *Imposition of disqualification penalties.* If the household member suspected of intentional misrepresentation or fraud signs the waiver of right to an administrative disqualification hearing and the signed waiver is received within the timeframes specified by the State agency, the household member shall be disqualified in accordance with the disqualification periods specified in paragraph (b) of this section. The period of disqualification shall begin with the first month which follows the date the household member receives written notification of the disqualification. And, the same act of intentional misrepresentation or fraud which occurred over a period of time shall not be separated so that separate penalties can be imposed. No further administrative appeal procedure exists after an individual waives his/her right to an administrative disqualification hearing and a disqualification penalty has been imposed. The disqualification penalty cannot be changed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisidiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

(iii) *Notification of disqualification.* The State agency shall mail a written notice to the household member prior to disqualification. The notice shall conform to the requirements for notification of a hearing decision specified in paragraph (f)(2)(ix) of this section. A written demand letter for restitution, as described in §273.18(d)(3), shall also be sent.

(iv) *Waiver of hearing at local level.* Any State agency which has adopted the two-tiered approach for administrative disqualification hearings may also provide for use at the local level of the waiving of right to disqualification hearing procedures outlined in this section.

(g) *Court imposed disqualifications.* (1) A court of appropriate jurisdiction may be requested by the State, a political subdivision of the State, or the United States as prosecutor or plaintiff to order an individual disqualified from participation in the program for the disqualification periods specified in paragraph (b) of this section if the court finds that individual guilty of civil or criminal misrepresentation or fraud.

(2) State agencies are encouraged to refer for prosecution under State or local statutes those individuals suspected of committing intentional misrepresentation or fraud, particularly if large amounts of food stamps are suspected of having been obtained by intentional misrepresentation or fraud, or the individual is suspected of committing more than one act of intentional misrepresentation or fraud. The State agency shall confer with its legal representative to determine the types of cases which will be accepted for possible prosecution. State agencies shall also encourage State and local prosecutors to recommend to the courts that a disqualification penalty as provided in section 6(b) of the Food Stamp Act be imposed in addition to any other civil or criminal penalties for such violations.

(3) State agencies shall disqualify an individual found guilty of intentional misrepresentation or fraud for the length of time specified by the court. If the court fails to impose a disqualification period, the State agency shall impose a disqualification period in accordance with the provisions in paragraph (b) of this section, unless contrary to the court order. If disqualification is ordered but a date for initiating the disqualification period is not specified, the State agency shall initiate the disqualification period for currently eligible individuals with the first month following the date the disqualification was ordered. Any other court-imposed disqualification shall begin the first month following the date the court found a currently eligible individual guilty of civil or criminal misrepresentation or fraud. If the individual is not eligible for the program at the time the disqualification period is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits.

(4) If the court finds that the household member committed misrepresentation or fraud, the State agency shall mail a written notice to the household member. The notice shall be sent prior to disqualification, whenever possible. The notice shall inform the household member of the decision and the date disqualification will take effect. The notice shall also advise the remaining household members, if any, of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11(c). In addition, the State agency shall include the written demand letter for restitution described in § 273.18(d)(3).

(h) *Reporting requirements.* (1) Each State agency shall report to FNS information concerning individuals disqualified for intentional misrepresentation or fraud through an administrative disqualification proceeding or by a court of appropriate jurisdiction. This information shall be submitted to FNS so that it is received no later than 30 days after the date the disqualification took effect.

(2) Each State agency shall report information concerning each individual disqualified for intentional misrepresentation or fraud in a format designed by FNS. This format shall include the individual's social security number and full name, the nature of the offense for which the individual was disqualified, the State in which the disqualification took place, the date on which the disqualification took effect, and the length of the disqualification period imposed.

(3) Each State agency shall submit the required information on each individual disqualified for intentional misrepresentation or fraud through an automated reporting system and in machine readable form, in accordance with procedures to be specified by FNS.

(4) All the data submitted by State agencies will be available for use by any State Welfare Agency. State agencies may use the data for the following:

(i) To determine the eligibility of individual program applicants; or

(ii) To ascertain the appropriate penalty to impose in a case under consideration, based on past disqualifications.

(5) The disqualification of an individual for intentional misrepresentation or fraud in one political jurisdiction shall be valid in another. However, fraud disqualifications which occurred prior to the implementation of the penalties contained in these regulations shall not be considered when determining the appropriate penalty to impose in a case under consideration, regardless of where the disqualification took place.

(i) *Reversed disqualifications.* In cases where the determination of intentional misrepresentation or fraud is reversed by a court of appropriate jurisdiction, the State agency shall reinstate the individual in the program if the household is eligible. The State agency shall restore benefits that were lost as a result of the disqualification in accordance with the procedures specified in § 273.17(e).

7. Section 273.18 is revised to read as follows:

§ 273.18 Claims against households.

(a) *Establishing claims against households.* The State agency shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive.

(1) *Inadvertent household error claims.* A claim shall be handled as an inadvertent household error claim if the overissuance was caused by a misunderstanding or unintended error on the part of the household.

(2) *Administrative error claims.* A claim shall be handled as an administrative error claim if the overissuance was caused by a State agency action or failure to take action.

(3) *Intentional misrepresentation or fraud claims.* A claim shall be handled as an intentional misrepresentation or fraud claim only if an administrative disqualification hearing official or a court of appropriate jurisdiction has determined that a household member committed intentional misrepresentation or fraud as defined in § 273.16 (c) or (d). Prior to the determination of intentional misrepresentation or fraud, the claim against the household shall be handled as an inadvertent household error claim.

(b) *Criteria for establishing inadvertent household and administrative error claims.* The State agency shall take action to establish a claim against any household that received an overissuance due to an inadvertent household or administrative error if the criteria specified in this paragraph have been met. At a minimum, the State agency shall take action on those claims for which 12 months or less have elapsed between the month on overissuance occurred and the month the State agency discovered a specific case involving an overissuance. The State agency may choose to take action on those claims for which more than 12 months have elapsed.

(1) Instances of inadvertent household error which may result in a claim include, but are not limited to, the following:

(i) The household unintentionally failed to provide the State agency with correct or complete information; or

(ii) The household unintentionally failed to report to the State agency changes in its household circumstances.

(2) Instances of administrative error which may result in a claim include, but are not limited to, the following:

(i) A State agency failed to take prompt action on a change reported by the household;

(ii) A State agency incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;

(iii) A State agency incorrectly issued duplicate ATP's to a household which were subsequently transacted;

(iv) The State agency determined a household eligible or provided it with more benefits than it was entitled to receive pending a fair hearing decision;

(v) The State agency continued to provide a household food stamp allotments after its certification period had expired without benefit of a reapplication determination; or

(vi) The State agency failed to provide a household a reduced level of food stamp benefits because its public assistance grant changed.

(3) Neither an administrative error claim nor an inadvertent household error claim shall be established if an overissuance occurred as a result of the following:

(i) A State agency failed to insure that a household fulfilled the following procedural requirements:

(A) Signed the application form,

(B) Completed a current work registration form, or

(C) Was certified in the correct project area;

(ii) The household transacted an expired ATP, unless the household altered its ATP.

(c) *Calculating the amount of claims.* (1) *Inadvertent household and administrative error claims.* (i) For each month that a household received an overissuance due to an inadvertent household or administrative error, the State agency shall determine the correct amount of food stamp benefits the household was entitled to receive. The amount of the inadvertent household or administrative error claim shall be calculated based, at a minimum, on the amount of overissuance which occurred during the 12 months preceding the date the overissuance was discovered. However, the State agency may choose to calculate the amount of the claim back to the month the inadvertent

household or administrative error occurred, regardless of the length of time that elapsed until the inadvertent household or administrative error was discovered. In cases involving reported changes, the State agency shall determine the month the overissuance initially occurred as follows:

(A) If, due to an inadvertent error on the part of the household, the household failed to report a change in its household circumstances within 10 days of the date the change became known to the household, the first month affected by the household's failure to report shall be the month after the month in which the change occurred.

(B) If the household reported a change within the 10 day limit, but the State agency did not act on the change within the required timeframes, the first month affected by the State's failure to act shall be the first month the State agency should have made the change effective. Therefore, if a notice of adverse action was required but was not sent, the State agency shall assume for the purpose of calculating the claim that the maximum advance notice period as provided in § 273.13(a)(1) would have expired without the household requesting a fair hearing.

(ii) If the household received a larger allotment than it was entitled to receive, the State agency shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

(iii) After calculating the amount of the inadvertent household or administrative error claim, the State agency shall offset the amount of the claim against any amounts which have not yet been restored to the household in accordance with § 273.17. The State agency shall then initiate collection action for the remaining balance, if any.

(2) *Intentional misrepresentation and fraud claims.* For each month that a household received an overissuance due to an act of intentional misrepresentation or fraud, the State agency shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of the intentional misrepresentation or fraud claim shall be calculated back to the month the act of intentional misrepresentation or fraud occurred, regardless of the length of time that elapsed until the determination of intentional misrepresentation or fraud was made. If the household member is determined to have committed intentional misrepresentation or fraud by intentionally failing to report a change in its household's circumstances, the first month benefits were overissued shall be the month after the month in which the change occurred. Once the amount of the intentional misrepresentation or fraud claim is established, the State agency shall offset the claim against any amount of lost benefits that have not yet been restored to the household in accordance with § 273.17.

(d) *Collecting claims against households.* (1) *Criteria for initiating collection action on inadvertent household and administrative error claims.* (i) State agencies shall initiate collection action on all inadvertent household or administrative error claims unless the claim is collected through offset or one of the following conditions apply:

(A) The total amount of the claim is less than $35, and the claim cannot be recovered by reducing the household's allotment.

(B) The State agency has documentation which shows that the household cannot be located.

(ii) The State agency may postpone collection action on inadvertent household error claims in cases where an overissuance is being referred for possible prosecution or for administrative disqualification, and the State agency determines that collection action will prejudice the case.

(2) *Criteria for initiating collection action on intentional misrepresentation and fraud claims.* If a household member is found to have committed intentional misrepresentation or fraud (by an administrative disqualification hearing official or a court of appropriate jurisdiction) the State agency shall initiate collection action against the individual's household. In addition, a personal contact with the household shall be made, if possible. The State agency shall initiate such collection unless the household has repaid the overissuance already, the State agency has documentation which shows the household cannot be located, or the State agency determines that collection action will prejudice the case against a household member referred for prosecution. The State shall initiate collection action for an unpaid or partially paid claim even if collection action was previously initiated against the household while the claim was being handled as an inadvertent household error claim. In cases where a household member was found guilty of misrepresentation or fraud by a court, the State agency shall request that the matter of restitution be brought before the court.

(3) *Initiating collection action on claims.* (i) State agencies shall initiate collection action by sending the household a written demand letter which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim, and the household's right to a fair hearing if the household disagrees with the amount of the claim. For inadvertent household error and intentional misrepresentation or fraud claims, the household shall also be informed of the length of time the household has to decide which method of repayment it will choose and inform the State agency of its decision and of the fact that the household's allotment will be reduced if the household fails to agree to make restitution. In addition, any household against which the State agency has initiated collection action shall be informed of its right to request renegotiation of any repayment schedule to which the household has agreed in accordance with paragraph (g)(2) of this section should the household's economic circumstances change. The demand letter shall provide space for the household to indicate the method of repayment and a signature block.

(ii) Each State agency shall develop a written demand letter for initiating collection action on claims which contains the information required by this section. A model form letter for demanding restitution of an overissuance is available from FNS for use by any State agency.

(iii) If the household pays the claim, payments shall be accepted and submitted to FNS in accordance with the procedures outlined in paragraphs (g) and (h) of this section.

(4) *Action against households which fail to respond.* (i) If the household against which collection action has been initiated for repayment of an inadvertent household error or intentional misrepresentation or fraud claim is currently participating in the program and does not respond to the written demand letter within 30 days of the date of receipt, the State agency shall reduce the household's food stamp allotment.

(ii) If any nonparticipating household or if any currently participating household against which collection action has been initiated for repayment of an administrative error claim does not respond to the first demand letter, additional demand letters shall be sent at reasonable intervals, such as 30 days, until the household has responded by paying or agreeing to pay the claim, or until the criteria for suspending collection action, as specified in

paragraph (e) of this section, have been met.

(iii) The State agency may also pursue other collection actions, as appropriate, to obtain restitution of a claim against any household which fails to respond to a written demand letter.

(e) *Suspending and terminating collection of claims.* (1) *Suspending collection of inadvertent household and administrative error claims.* An inadvertent household or administrative error claim may be suspended if no collection action was initiated because of conditions specified in paragraph (d)(1)(i) of this section. If collection action was initiated, and at least one demand letter has been sent, further collection action of an inadvertent household error claim against a nonparticipating household or of any administrative error claim may be suspended when:

(i) The household cannot be located; or

(ii) The cost of further collection action is likely to exceed the amount that can be recovered.

(2) *Suspending collection of intentional misrepresentation and fraud claims.* The State agency may suspend collection action on intentional misrepresentation or fraud claims at any time if it has documentation that the household cannot be located. If the State agency has sent at least one demand letter for claims under $100, at least two demand letters for claims betwen $100 and $400, and at least three demand letters for claims of more than $400, further collection action of any intentional misrepresentation or fraud claim against a nonparticipating household may be suspended when the cost of further collection action is likely to exceed the amount that can be recovered.

(3) *Terminating collection of claims.* A claim may be determined uncollectible after it is held in suspense for 3 years. The State agency may use a suspended or terminated claim to offset benefits in accordance with § 273.17.

(f) *Change in household composition.* (1) *Inadvertent household and administrative error claims.* The State agency shall initiate collection action against the household which received the overissuance for which the inadvertent household or administrative error claim was established. If a change in household membership occurs, the State agency shall initiate collection action against the household containing a majority of the individuals who were household members at the time the error occurred.

(2) *Intentional misrepresentation and fraud claims.* The State agency shall initiate collection action against the household which contained the household member found to have committed intentional misrepresentation or fraud and which received the overissuance for which the claim was established. If a change in household membership occurs, the State agency shall initiate collection action against the household containing a majority of the individuals who were household members at the time of the act(s) of intentional misrepresentation or fraud occurred.

(g) *Method of collecting payments.* State agencies shall collect payments for claims against households as follows:

(1) *Lump sum.* (i) If the household is financially able to pay the claim at one time, the State agency shall collect a lump sum cash payment. However, the household shall not be required to liquidate all of its resources to make this one lump sum payment.

(ii) If the household is financially unable to pay the entire amount of the claim at one time and prefers to make a lump sum cash payment as partial payment of the claim, the State agency shall accept this method of payment.

(iii) If the household chooses to make a lump sum payment of food stamp coupons as full or partial payment of the claim, the State agency shall accept this method of repayment.

(2) *Installments.* (i) The State agency shall negotiate a payment schedule with the household for repayment of any amounts of the claim not repayed through a lump sum payment. Payments shall be accepted by the State agency in regular installments. The household may use food stamp coupons as full or partial payment of any installment. If the full claim or remaining amount of the claim cannot be liquidated in 3 years, the State agency may compromise the claim by reducing it to an amount that will allow the household to pay the claim in 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance wih § 273.17.

(ii) If the household fails to make a payment in accordance with the established repayment schedule, (either a lesser amount or no payment), the State agency shall send the household a notice explaining that no payment or an insufficient payment was received. The notice shall inform the household that it may contact the State agency to discuss renegotiation of the payment schedule. The notice shall also inform the household that unless the overdue payments are made or the State agency is contacted to discuss renegotiation of the payment schedule, the allotment of a currently participating household against which an inadvertent household error or intentional misrepresentation or fraud claim has been established may be reduced without a notice of adverse action.

(iii) If the household responds to the notice, the State agency shall take one of the following actions as appropriate:

(A) If the household makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household to do so;

(B) If the household requests renegotiation, and if the State agency concurs with the request, negotiate a new payment schedule;

(C) If the household requests renegotiation of the amount of its repayment schedule but the State agency believes that the household's economic circumstances have not changed enough to warrant the requested settlement, the State agency may continue renegotiation until a settlement can be reached.

(iv) If a currently participating household against which an inadvertent household error or intentional misrepresentation or fraud claim has been established fails to respond to the notice, the State agency shall invoke allotment reduction. The State agency may also invoke allotment reduction if such a household responds by requesting renegotiation of the amount of its repayment schedule but the State agency believes that the household's economic circumstances have not changed enough to warrant the requested settlement. If allotment reduction is invoked, no notice of adverse action is required.

(v) In cases where the household is currently participating in the program and a payment schedule is negotiated for repayment of an inadvertent household error or intentional misrepresentation or fraud claim, the State agency shall ensure that the amount of the claim recovered through installment payments is not less than the amount which could be recovered through allotment reduction.

(3) *Reduction in food stamp allotment.* State agencies shall collect payments for inadvertent household error claims and intentional misrepresentation or fraud claims from households currently participating in the program by reducing the household's food stamp allotment. Prior to reduction, the State agency shall inform the household of the amount of food stamps to be recovered each month and of the availability of other methods of repayment. If the household requests to make a lump sum cash and/or food stamp coupon payment as full or partial

payment of the claim, the State agency shall accept this method of payment. The State agency shall reduce the household's allotment to recover any amounts of the claim not repayed through a lump sum cash and/or food stamp coupon payment, unless a payment schedule has been negotiated with the household. The provision for a $10 minimum benefit level for households with one and two members only as described in § 273.10(e)(2)(ii)(B), shall apply to the allotment prior to reduction in accordance with this paragraph. If the full or remaining amount of the claim cannot be liquidated in 3 years, the State agency may compromise the claim by reducing it to an amount that will allow the household to make restitution within 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 273.17. The amount of food stamps to be recovered each month through allotment reduction shall be determined as follows:

(i) *Inadvertent household error claims.* For inadvertent household error claims, the amount of food stamps shall be the greater of 10 percent of the household's monthly allotment or $10 per month.

(ii) *Intentional misrepresentation or fraud claims.* For intentional misrepresentation or fraud claims, the amount of food stamps shall be the lesser of 25 percent of the household's monthly allotment *or* the guilty individual's pro rata share of the entitlement. Recovery of less than these amounts shall be accepted only if it results in equal increments or if the full amount can be recovered within a year using a lesser percentage.

(h) *Submission of payments.* (1) The State agency shall retain the value of funds collected for inadvertent household error, intentional misrepresentation or fraud, or administrative error claims. This amount includes the total value of allotment reductions to collect inadvertent household error and intentional misrepresentation or fraud claims, but does not include the value of the reduction of allotments resulting from a disqualification. The States' letter of credit will be amended on a quarterly basis to reflect the States' retention of 25 percent of the value of inadvertent household error claims and 50 percent of the value of intentional misrepresentation or fraud claims collected, as well as full retention by FNS of all administrative error overissuance recoveries.

(2) Each State agency shall submit quarterly a Form FNS–209, Status of Claims Against Households, to detail the State's activities relating to claims against households. This report is due no later than 30 days after the end of each calendar year quarter and shall be submitted to FNS even if the State agency has not collected any payments. In addition to reporting the amount of funds recovered from inadvertent household error and intentional misrepresentation or fraud claims each quarter on Form FNS–209, the State agency shall also report these amounts on other letter of credit documents as required. In accounting for inadvertent household error and intentional misrepresentation or fraud claims collections, the State agency shall include cash repayments and the value of allotments recovered or offset by restoration of lost benefits. However, the value of allotments reduced during periods of disqualification shall not be considered recovered allotments and shall not be used to offset an intentional misrepresentation or fraud claim. In addition, each State agency shall establish controls to ensure that officials responsible for intentional misrepresentation or fraud determinations will not benefit from the State share of recoveries.

(3) The State agency may retain any amounts recovered on a claim being handled as an inadvertent household error claim prior to obtaining a determination by an administrative disqualification hearing official or a court of appropriate jurisdiction that intentional misrepresentation or fraud was committed at the rate applicable to intentional misrepresentation or fraud claims, once the determination is obtained. In such cases, the State agency shall include a note in the remarks section of the quarterly reporting form specified in paragraph (h)(2) of this section which shows the additional amounts being retained on amounts already recovered as a result of the change in status of the claim.

(4) If a household has overpaid a claim, the State agency shall pay the household any amounts overpaid. The household shall be paid by whatever method the State agency deems appropriate considering the household's circumstances. In cases where payment is made from funds collected through overissuance recoveries, the State agency shall include a note in the remarks section of the quarterly reporting form specified in paragraph (h)(2) of this section which shows the amounts which were paid to households for overpaid claims. The State agency shall also include a note in the remarks section of the quarterly reporting form which identifies any claims for which the State agency retained funds and later paid the household for an overpayment.

(5) In cases where FNS has billed a State agency for negligence, any amounts collected from households which were caused by the State's negligence will be credited by FNS. When submitting these payments, the State agency shall include a note in the remarks section of the quarterly reporting form specified in paragraph (h)(2) of this section which shows the amount that should be credited against the State's bill.

(6) The State agency shall destroy any coupons or coupon books collected from households as payment for claims in accordance with the procedures for destruction of unusable coupons described in § 274.8(b).

(i) *Claims discharged through bankruptcy.* State agencies shall act on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households owing food stamps claims. State agencies shall possess any rights, priorities, interests, liens or privileges, and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, State agencies shall have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections which FNS might have filed. Any amounts collected under this authority shall be transmitted to FNS as provided in paragraph (h) of this section.

(j) *Accounting procedures.* Each State agency shall be responsible for maintaining an accounting system for monitoring claims against households. At a minimum, the accounting system shall be designed to readily accomplish the following:

(1) Document the circumstances which resulted in a claim, the procedures used to calculate the claim, the methods used to collect the claim and, if applicable, the circumstances which resulted in suspension or termination of collection action.

(2) Identify those situations in which an amount not yet restored to a household can be used to offset a claim owed by the household.

(3) Identify those households that have failed to make installment payments on their claims.

(4) Document how much money was collected in payment of a claim and how much was submitted to FNS.

(k) *Interstate Claims Collection.* In cases where a household moves out of the area under a State agency's jurisdiction, the State agency should

initiate or continue collection action against the household for any overissuance to the household which occurred while it was under the State agency's jurisdiction. The State agency which overissued benefits to the household shall have the first opportunity to collect any overissuance. However, if the State agency which overissued benefits to the household does not take prompt action to collect, then the State agency which administers the area into which the household moves should initiate action to collect the overissuance. Prior to initiating action to collect such overissuances, the State agency which administers the area into which the household moves shall contact the State agency which overissued benefits to ascertain that it does not intend to pursue prompt collection. The State share of any collected claims, as provided in § 273.18(h), shall be retained by the State agency which collects the overissuance.

PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

8. § 276.2, paragraph (c) is revised to read as follows:

§ 276.2 State agency liabilities.

* * * * *

(c) *Cash losses.* State agencies are liable to FNS for cash losses when money collected by State agencies from participant claims has been lost, stolen, or otherwise not remitted to FNS by the State agency in accordance with the provisions of § 273.18(h). The amount of such losses shall be determined from sources such as audits, Performance Reporting System reviews, Federal reviews and investigations.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029); and secs. 112, 113 and 114 of Pub. L. 97–35, 95 Stat. 362 (7 U.S.C. 2015, 2022, and 2025))

(Catalog of Federal Domestic Assistance Programs No. 10551, Food Stamp Program)

Dated: June 16, 1982.

Samuel J. Cornelius,

Administrator.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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