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Friday
August 6, 1982

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Antibiotics
Food and Drug Administration

Banks and Banking
Depository Institutions Deregulation Committee

Communications
Air Force Department

Fisheries
National Oceanic and Atmospheric Administration

Floodplains
Soil Conservation Service

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Marketing Agreements
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Quarantine
Animal and Plant Health Inspection Service

Savings and Loan Associations
Federal Home Loan Bank Board

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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 4957 of August 4, 1982

Working Mothers' Day

By the President of the United States of America

A Proclamation

Over the past half century a great change has been taking place in the social and economic structure of the United States: mothers are joining the labor force in ever-increasing numbers. At the present time, over half of all the children in America have mothers who work outside the home.

Over forty-three million women are now employed in every area of public and private employment and are continuing to develop new opportunities. They have made, and continue to make, increasingly important contributions to the Nation.

Of these forty-three million working women, over eighteen million simultaneously perform the vitally important role of mother.

These women make substantial contributions both to the Nation's economic growth and to the increasing strength of the American family, often at great personal sacrifice. They deserve our recognition and gratitude.

Most other mothers are working full time in the home. Their work is no less important. The guidance they give their children and the maintenance of a strong and cohesive family unit also contribute to the Nation's economic growth.

By Senate Joint Resolution 53, the Congress of the United States has authorized and requested the President to designate September 5, 1982, as "Working Mothers' Day."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim September 5, 1982, as "Working Mothers' Day" and call upon families, individual citizens, labor and civic organizations, the media, and the business community to acknowledge the importance of the mothers who work inside or outside the home and to express appreciation for their role in American society.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of Aug, 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 seventh.

Ronald Reagan

[FR Doc. 82-21564
Filed 8-5-82; 10:50 am]
Billing code 3195-01-M

Presidential Documents

Executive Order 12375 of August 4, 1982

Motor Vehicles

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 1901 *et seq.*), and Section 301 of Title 3 of the United States Code, it is hereby ordered that Section 1 of Executive Order No. 11912, as amended, is further amended to read as follows:

"Section 1. (a) The Administrator of General Services is designated and empowered to perform without approval, ratification, or other action by the President, the functions vested in the President by Section 510 of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 915, 15 U.S.C. 2010). The Administrator shall exercise that authority to ensure that passenger automobiles acquired by all Executive agencies in each fiscal year achieve a fleet average fuel economy standard that is not less than the average fuel economy standard for automobiles manufactured for the model year which includes January 1 of each fiscal year.

"(b) The Administrator of General Services shall also promulgate rules which will ensure that each class of nonpassenger automobiles acquired by all Executive agencies in each fiscal year achieves a fleet average fuel economy that is not less than the average fuel economy standard for such class, established pursuant to Section 502(b) of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 903, 15 U.S.C. 2002(b)), for the model year which includes January 1 of such fiscal year. Such rules shall not apply to nonpassenger automobiles intended for use in combat-related missions for the Armed Forces or intended for use in law enforcement work or emergency rescue work. The Administrator may provide for granting exceptions for individual nonpassenger automobiles or categories of nonpassenger automobiles as he determines to be appropriate in terms of energy conservation, economy, efficiency, or service.

"(c) In performing these functions, the Administrator of General Services shall consult with the Secretary of Transportation and the Secretary of Energy.".

Ronald Reagan

THE WHITE HOUSE,
August 4, 1982.

[FR Doc. 82-21565
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Billing code 3195-01-M

Rules and Regulations

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

OFFICE OF THE FEDERAL REGISTER

1 CFR Part 51

Approval Procedures for Incorporation by Reference

AGENCY: Office of the Federal Register.

ACTION: Final rule.

SUMMARY: Under the Freedom of Information Act, the Director of the Federal Register has the responsibility for approval of materials incorporated by reference into the **Federal Register** system. This document removes a requirement that all materials incorporated by reference be reviewed and resubmitted for approval annually. The change is made because the purpose of annual review largely has been accomplished. The document also clarifies certain longstanding policies and reorganizes and rewrites existing regulations.

EFFECTIVE DATE: August 6, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Anne Lawson at (202) 523–4534.

SUPPLEMENTARY INFORMATION: The Federal Register Act of 1935 provides for "an official publication called the **'Federal Register'** in which all rules and regulations (of a Federal agency) shall systemically and uniformly be published." Under that Act, Federal agencies are directed to publish in the **Federal Register**, and codify in the Code of Federal Regulations (CFR), regulations of general applicability and legal effect.

However, under certain limited circumstances, an agency may meet **Federal Register** publication requirements without publishing a regulation full text. In 1966, Congress passed the Freedom of Information Act (FOIA). That Act formally established incorporation by reference as a device that an agency may use to include certain regulatory material in its regulations without publishing the material full text in the **Federal Register.** Through incorporation by reference, an agency may meet the publication requirements of the Federal Register Act and FOIA by referring to material published outside the Federal Register system. For valid incorporation under the Act, the material referenced must be reasonably available to the class of persons affected by it, and the Director of the Federal Register must approve the incorporation by reference.

Office of the Federal Register (OFR) regulations on incorporation by reference are in 1 CFR Part 51. In March 1979, the Director of the Federal Register amended those regulations by adding a new § 51.13 to require a thorough annual review of all materials then approved for incorporation by reference. The purpose of the annual review was to determine whether incorporated material was available to the public, on file with the OFR, and appropriate for continued incorporation by reference.

OFR now has the incorporated material on file and has reviewed it for appropriateness and availability. It has published documents notifying the public of the material the Director has approved. The purpose in conducting the annual review has been served. Therefore, OFR is removing § 51.13. This action will reduce a recurring burden on Federal agencies. Although this document ends annual review, each agency must comply with the terms of any conditions stated in previous annual approval letters.

In addition, the Office is clarifying its policy and procedures in response to problems of which it became aware in making an inventory of the incorporation by reference system.

Approval by the Director of the Federal Register of material proposed for incorporation by reference was mandated (5 U.S.C. 552(a)(1)(E)) to safeguard the Federal Register system. Thus, OFR regulations contain a provision that matter incorporated by reference must not detract from the legal and practical attributes of that system (see 1 CFR 51.1(c)). An implied presumption has been that material developed and published by a Federal agency is inappropriate for incorporation by reference by that agency, except in limited circumstances. Otherwise, the **Federal Register** and Code of Federal Regulations could become a mere index to material published elsewhere. This would be destructive of the central publication system for Federal regulations envisioned by Congress when it enacted the Federal Register Act and the Administrative Procedure Act.

To avoid misunderstanding about the presumption against the appropriateness of agency produced material for incorporation by reference, in § 51.7(b) OFR is clarifying § 51.1 to make this long-maintained presumption explicit.

Another provision, § 51.11(a), adds a requirement that if an agency seeks approval for changes to a publication already approved for incorporation by reference, the agency must send a letter to the Director, notifying OFR of the change. This will facilitate updating of the list of material in the incorporation by reference system. The other Part 51 requirements for amendments remain the same.

Finally, the Office increases the time allotted for processing agency requests for approval of incorporation by reference from 10 days to 20 (see § 51.5(a)). An agency has been required to submit its request and accompanying documents to OFR at least 10 days before the agency submits its final rule for publication. During this period, the Office determines whether new material submitted is appropriate for inclusion in the incorporation by reference system, whether the material already is on file at OFR, and whether all other requirements of Part 51 have been met. It is during this period that any problems with the request must be resolved. Experience has shown that 10 days is insufficient time to process agency requests. Therefore, the Office increases the time allotted to 20 days.

The other amendments to Part 51 clarify and simplify existing requirements by joining related provisions and by eliminating unnecessary text.

Public comment on the new Part 51 is not required under 5 U.S.C. 553(b) since it deals with interpretation, general policy, and agency procedures. These amendments end the burden of the annual review. They also make explicit longstanding OFR policies. OFR has determined that Part 51 is not a major rule under E.O. 12291 and it does not have a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) Revised Part 51 becomes effective August 6, 1982. Since Part 51 deals principally with agency procedures and relieves burdens previously imposed on Federal agencies, the OFR has determined that the 30 day delay in effectiveness prescribed by 5 U.S.C. 553(d) is unnecessary.

Distribution and Derivation Tables

For clarity and convenience, OFR directs users to the following tables that identify previous Part 51 section numbers and show where these sections have been integrated into revised Part 51.

DISTRIBUTION TABLE

Old Part 51	New Part 51
51.1(a)	Unchanged.
51.1(b)	Revised. See 51.1(d).
51.1(c)	Revised. See 51.1(b); 51.7(b).
51.1(c)(1)	Revised. See 51.1(b)(2).
51.1(c)(2)	Revised. See 51.1(b)(1).
51.1(c)(3)	Revised. See 51.1(b)(3).
51.1(c)(4)	Revised. See 51.1(b)(4).
51.1(d)	Revised. See 51.1(c). Clarified. See 51.1(c)(2).
51.1(d)(1)	Removed.
51.1(d)(2)	Revised. See 51.1(c)(1).
51.1(d)(3)	Revised. See 51.1(c)(2).
51.1(e)	Revised. See 51.5(a), (b).
51.2	Revised. See 51.7(a), (a)(1), (a)(2), (a)(4); Clarified. See 51.7(c), (c)(1), (c)(2).
51.3(a)	Clarified. See 51.7(c).
51.3(b)	Removed.
51.4 (undesignated)	Revised. See 51.3(a).
51.4(a)	Revised. See 51.3(a)(1).
51.4(b)	Revised. See 51.7(a)(3).
51.4(c)	Revised. See 51.7(a)(4).
51.4(d)	Revised. See 51.3(a)(2);
51.5	Revised. See 51.3(a)(3); 51.5(a)(3); 51.11(a)(2).
51.6(a)	Revised. See 51.3(a)(2); 51.9(a); (b).
51.6(b)	Revised. See 51.3(a)(2); 51.9(a), (b).
51.7(a)	Removed.
51.7(b)	Revised. See 51.9(b)(2).
51.7(c)	Revised. See 51.9(b)(3).
51.8(a)	Revised. See 51.9(b)(4).
51.8(b)	Revised. See 51.9(b)(4).
51.8(c)	Revised. See 51.1(f); 51.11(a); (a)(1).
51.10(a)	Revised. See 51.5(a)(1).
51.10(b)	Revised. See 51.3(b).
51.10(c)	Unchanged. See 51.1(e).
51.11	Revised. See 51.9(c).
51.12	Revised. See 51.9(c).
51.13	Removed.

DERIVATION TABLE

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51.1(b)(2)	51.1(c)(1) revised.
51.1(b)(3)	51.1(c)(3) revised.
51.1(b)(4)	51.1(c)(4) revised.
51.1(c)	51.1(d) revised.
51.1(c)(1)	51.1(d)(2) revised.
51.1(c)(2)	51.1(d)(3) revised.
51.1(d)	51.1(b)
51.1(e)	51.10(c) unchanged.
51.1(f)	51.8(c) revised.
51.3(a)	51.4(undesignated) revised.
51.3(a)(1)	51.4(a) revised.
51.3(a)(2)	51.4(d) revised; 51.6(a); (b) revised.
51.3(a)(3)	51.5 revised.
51.3(a)(4)	51.11 revised.
51.3(b)	51.10(b) revised.

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51.5(a)(2)	51.4(d) revised.
51.5(a)(3)	51.5 revised.
51.5(b)	51.1(e) revised.
51.7(a)	51.2 revised.
51.7(a)(1)	51.2 revised.
51.7(a)(2)	51.2 revised.
51.7(a)(3)	51.4(b) revised.
51.7(a)(4)	51.2 revised; 51.4(c) clarified.
51.7(b)	51.1(c); 51.1(d)(3); 51.2 clarified.
51.7(c)(1)	51.1(a) clarified.
51.7(c)(2)	51.1(a) clarified.
51.9(a)	51.6(a); (b) revised.
51.9(b)	51.6(a) revised.
51.9(b)(1)	51.6(b) revised.
51.9(b)(2)	51.7(b) revised.
51.9(b)(3)	51.7(c) revised.
51.9(b)(4)	51.8(a); (b) revised.
51.9(b)(5)	51.6(b) clarified.
51.9(c)	51.12 revised; see also 1 CFR 18.12; 18.20.
51.11(a)	51.8(c) revised.
51.11(a)(1)	51.8(c) revised.
51.11(a)(2)	51.5 revised; 51.8(c) clarified.
51.11(a)(3)	Added.
51.11(b)	Added.

List of Subjects in 1 CFR Part 51

Administrative practice and procedure, Incorporation by reference.

For the reasons set out in the preamble, Chapter II of Title 1 of the Code of Federal Regulations is amended as set forth below:

Part 51 is revised to read as follows:

PART 51—INCORPORATION BY REFERENCE

Sec.

51.1 Policy.
51.3 When will the Director approve a publication?
51.5 How does an agency request approval?
51.7 What publications are eligible?
51.9 What is the proper language of incorporation?
51.11 How does an agency change or remove an approved incorporation?

Authority: 5 U.S.C. 552(a).

§ 51.1 Policy.

(a) Section 552(a) of Title 5, United States Code, provides, in part, that "matter reasonably available to the class of persons affected thereby is deemed published in the **Federal Register** when incorporated by reference therein with the approval of the Director of the Federal Register."

(b) The Director will interpret and apply the language of section 552(a) together with other requirements which govern publication in the **Federal Register** and the Code of Federal Regulations. Those requirements which govern publication include—

(1) The Federal Register Act (44 U.S.C. 1501 *et seq.*)

(2) The Administrative Procedure Act (5 U.S.C. 551 *et seq.*);

(3) The regulations of the Administrative Committee of the Federal Register under the Federal Register Act (1 CFR Ch. I); and

(4) The acts which require publication in the **Federal Register** (See CFR volume entitled "CFR Index and Finding Aids.")

(c) The Director will assume in carrying out the responsibilities for incorporation by reference that incorporation by reference—

(1) Is intended to benefit both the Federal Government and the members of the class affected; and

(2) Is not intended to detract from the legal or practical attributes of the system established by the Federal Register Act, the Administrative Procedure Act, the regulations of the Administrative Committee of the Federal Register, and the acts which require publication in the **Federal Register.**

(d) The Director will carry out the responsibilities by applying the standards of Part 51 fairly and uniformly.

(e) Publication in the **Federal Register** of a document containing an incorporation by reference does not of itself constitute an approval of the incorporation by reference by the Director.

(f) Incorporation by reference of a publication is limited to the edition of the publication that is approved. Future amendments or revisions of the publication are not included.

§ 51.3 When will the Director approve a publication?

(a) The Director will approve the incorporation by reference of a publication when the following requirements are met:

(1) The publication is eligible for incorporation by reference (See § 51.7).

(2) The language of incorporation meets the requirements of this part (See § 51.9).

(3) The publication is on file with the Office of the Federal Register.

(4) The Director has received a written request from the agency to approve the incorporation by reference of the publication.

(b) The Director will notify the agency of the approval or disapproval of an incorporation by reference within 20 working days after the agency has met all the requirements for requesting approvals (See § 51.5).

§ 51.5 How does an agency request approval?

(a) Formal approval of a publication

for incorporation by reference applies to a final rule document. For timely approval by the Director of the Federal Register, the agency must—

(1) Make a written request for approval at least 20 working days before the agency intends to submit the final rule document for publication;

(2) Send with the written request a copy of the final rule document that uses the proper language of incorporation; and

(3) Ensure that a copy of the publication is on file at the Office of the Federal Register.

(b) Agencies may consult with the Office of the Federal Register at any time with respect to the requirements of this part.

§ 51.7 What publications are eligible?

(a) A publication is eligible for incorporation by reference under 5 U.S.C. 552(a) if it—

(1) Conforms to the policy stated in § 51.1;

(2) Is published data, criteria, standards, specifications, techniques, illustrations, or similar material;

(3) Substantially reduces the volume of material published in the **Federal Register**; and

(4) Is reasonably available to and usable by the class of persons affected by the publication. In determining whether a publication is usable, the Director will consider—

(i) The completeness and ease of handling of the publication; and

(ii) Whether it is bound, numbered, and organized.

(b) The Director will assume that a publication produced by the same agency that is seeking its approval is inappropriate for incorporation by reference. A publication produced by the agency may be approved, if, in the judgment of the Director, it meets the requirements of paragraph (a) and possesses other unique or highly unusual qualities. A publication may be approved if it cannot be printed using the **Federal Register**/Code of Federal Regulations printing system.

(c) The following materials are not appropriate for incorporation by reference:

(1) Material published previously in the **Federal Register**.

(2) Material published in the *United States Code*.

§ 51.9 What is the proper language of incorporation?

(a) The language incorporating a publication by reference shall be as precise and complete as possible and shall make it clear that the incorporation by reference is intended and completed by the final rule document in which it appears.

(b) The language incorporating a publication by reference is precise and complete if it—

(1) Uses the words "incorporated by reference;"

(2) States the title, date, edition, author, publisher, and identification number of the publication;

(3) Informs the user that the incorporated publication is a requirement;

(4) Makes an official showing that the publication is in fact available by stating where and how copies may be examined and readily obtained with maximum convenience to the user; and

(5) Refers to 5 U.S.C. 552(a).

(c) If the Director approves a publication for incorporation by reference, the agency must—

(1) Include the following under the DATES caption of the preamble to the final rule document (See 1 CFR 18.12 *Preamble requirements):*

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of ———.

(2) Includes the term "incorporation by reference" in the list of index terms (See 1 CFR 18.20 *Identification of subjects in agency regulations).*

§ 51.11 How does an agency change or remove an approved incorporation?

(a) An agency that seeks approval for a change to a publication that is approved for incorporation by reference must—

(1) Publish notice of the change in the **Federal Register** and amend the Code of Federal Regulations;

(2) Ensure that a copy of the amendment or revision is on file at the Office of the Federal Register; and

(3) Notify the Director of the Federal Register in writing that the change is being made.

(b) If a regulation containing an incorporation by reference fails to become effective or is removed from the Code of Federal Regulations, the agency must notify the Director of the Federal Register in writing of that fact within 5 working days of the occurrence.

Dated: August 3, 1982.

John E. Byrne,

Director of the Federal Register.

[FR Doc. 82-21305 Filed 8-5-82; 8:45 am]

BILLING CODE 1505-02-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 82-330]

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: The Mediterranean fruit fly quarantine and regulations quarantine California and impose restrictions on the movement of regulated articles from regulated areas in California. This document amends the quarantine and regulations by deleting portions of Santa Clara and Santa Cruz Counties from the list of regulated areas. The effect of this action is to delete restrictions on the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of regulated articles from the areas removed from regulated area status. This action is warranted because such restrictions are no longer necessary for the purpose of preventing the artificial spread of the Mediterranean fruit fly.

DATES: Effect date of amendment August 6, 1982. Written comments concerning this rule must be received on or before October 4, 1982.

ADDRESSES: Written comments should be submitted to Thomas Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 641 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: B. Glen Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 610 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This interim rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this proposed rule

would have an annual effect on the economy of less than $25,000; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not 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.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512–1.

Certification Under the Regulatory Flexibility Act

Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from a portion of Santa Clara and Santa Cruz Counties in California. There are thousands of small entities that move such articles interstate from California and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the U.S. Department of Agriculture, it has been determined that fewer than 5 small entities move such articles interstate from the regulated areas being released by this document in Santa Clara and Santa Cruz Counties. Further, the overall economic impact from this action is estimated to be less than $25,000.

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this document without opportunity for a public comment period because otherwise there would be unnecessary restrictions imposed on the interstate movement of certain articles. This situation requires immediate action to delete such unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this action effective less than 30 days after publication of this document in the Federal Register. Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any changes required will be published in the Federal Register as soon as possible.

Background

Because of infestations of the Mediterranean fruit fly found in areas in California, the Mediterranean fruit fly quarantine and regulations were made effective on July 20, 1981 (46 FR 37706–37713), and amendments to the quarantine and regulations were made effective on August 7, August 19, September 2, 1981, and June 1, June 17, July 2, and July 6, 1982 (46 FR 40203–40205, 42072–42073, 44144–44145; 47 FR 23682–23683, 26121–26122, 29207–29209, and 28909–28911). The quarantine and regulations are set forth in 7 CFR 301.78 through 301.78–10.

For the purpose of preventing the artificial spread of the Mediterranean fruit fly to noninfested areas in the United States, the quarantine and regulations restrict the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of articles designated as regulated articles from areas designated as regulated areas. The quarantine and regulations currently list as regulated areas all of San Mateo County and portions of San Joaquin and Santa Clara Counties. Prior to the effective date of this document, the quarantine and regulations also listed as regulated areas part of Santa Cruz County and a larger portion of Santa Clara County.

Based on trapping and sampling surveys conducted by inspectors of the U.S. Department of Agriculture and State agencies of California, it has now been determined that the Mediterranean fruit fly has been eradicated from Santa Clara and Santa Cruz Counties, except for the following portion of Santa Clara County:

Santa Clara County. That portion of the county beginning at a point where Interstate 280 intersects the San Mateo-Santa Clara County line; then southeasterly along Interstate 280 to its intersection with El Monte Avenue; then northeasterly along said Avenue to its intersection with Foothill Expressway; then southeasterly along said expressway to its intersection with Fremont Avenue; then east on Fremont Avenue to its intersection with Hollenbeck Avenue; then north on Hollenbeck Avenue to its intersection with El Camino Real; then southeasterly on El Camino Real to its intersection with Fair Oaks Avenue; then northerly on said avenue to its intersection with Central Expressway; then easterly on said expressway to its intersection with Lawrence Expressway; then northerly on Lawrence Expressway to its intersection with State Route 237; then due north from said intersection along an imaginary line to its intersection with the Alameda-Santa Clara County line; then westerly along said county line to the San Mateo-Santa Clara County line; then southerly along said county line to the point of beginning.

Under these circumstances there is no longer a basis for imposing restrictions on the movement of articles from Santa Clara and Santa Cruz Counties, except for the portion of Santa Clara County described above. Therefore, in order to relieve unnecessary restrictions on the interstate movement of certain articles, it is necessary as an emergency measure to delete from the list of regulated areas the list regulated portion of Santa Cruz County and those regulated areas in Santa Clara County that are not included in the description set forth above.

Also, nonsubstantive changes are made in the description of the regulated area in San Joaquin County to improve clarity.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, § 301.78–3(c) of the Mediterranean fruit fly quarantine and regulations (7 CFR 301.78–3(c)) is revised to read as follows:

§ 301.78–3 Regulated areas.

* * * * *

(c) The areas described below are designated as regulated areas:

California

San Joaquin County. That portion of the county beginning at a point where Interstate 5 intersects the Calaveras River; then easterly along said river to its intersection with West Lane; then easterly from said intersection along an imaginary line to the intersection of Cherryland Road and Waterloo Road; then northeasterly along Waterloo Road to its intersection with Beyer Lane; then southerly along Beyer Lane to its intersection with the Stockton Terminal and Eastern Railroad; then easterly along said railroad to its intersection with Baldwin Lane; then southerly along said lane to its intersection with State Highway 26; then easterly along said highway to its intersection with Alpine Road; then southerly

along said road to its intersection with the Southern Pacific Railroad; then easterly along said railroad to an imaginary point due north of the intersection of Farmington Road and Kaiser Road; then due south from said point along an imaginary line to the intersection of Farmington Road and Kaiser Road; then southerly along Kaiser Road to its end; then south from the end of Kaiser Road along an imaginary line to its intersection with Lone Tree Creek; then westerly from said intersection along an imaginary line to the intersection of Union Road and Lovelace Road; then westerly along Lovelace Road to its intersection with Airport Way (Durham Ferry Road); then westerly from said intersection along an imaginary line to the intersection of Interstate 5 and Manila Road; then westerly along Manila Road to its end; then westerly from the end of Manila Road along an imaginary line to the beginning of Carlin Road; then westerly along Carlin road to its intersection with Roberts Road; then northerly along Roberts Road to its intersection with Mueller road; then due north from said intersection along an imaginary line to its intersection with the San Joaquin River; then northerly and easterly along said river to its intersection with the Smith Canal; then easterly along said Canal to its intersection with Interstate 5; then northerly along Interstate 5 to the point of beginning.

San Mateo County. The entire county.

Santa Clara County. That portion of the county beginning at a point where Interstate 280 intersects the San Mateo-Santa Clara County line; then southeasterly along Interstate 280 to its intersection with El Monte Avenue; then northeasterly along said avenue to its intersection with Foothill Expressway; then southeasterly along said expressway to its intersection with Fremont Avenue; then east on Fremont Avenue to its intersection with Hollenbeck Avenue; then north on Hollenbeck Avenue to its intersection with El Camino Real; then southeasterly on El Camino Real to its intersection with Fair Oaks Avenue; then northerly on said avenue to its intersection with Central Expressway; then easterly on said expressway to its intersection with Lawrence Expressway; then northerly on Lawrence Expressway to its intersection with State Route 237; then due north from said intersection along an imaginary line to its intersection with the Alameda-Santa Clara County line; then westerly along said county line to the San Mateo-Santa Clara County line; then southerly along said county line to the point of beginning.

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 3d day of August 1982.

A. P. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-21355 Filed 8-5-82; 8:45 am]
BILLING CODE 3410-34-M

Soil Conservation Service

7 CFR Part 650

Support Activities: Compliance With NEPA

AGENCY: Soil Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: These rules codify Soil Conservation Service (SCS) policy for compliance with Executive Order 11990, Protection of Wetlands, in assistance programs administered by SCS. These rules are in accordance with U.S. Department of Agriculture Secretary's Memorandum No. 9500-2, Implementation of Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands. The rule gives SCS additional flexibility over previous rules in providing technical assistance to alter wetlands when denial of assistance could lead to detrimental consequences on soil and water resources or on human welfare and safety.

EFFECTIVE DATE: August 6, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas N. Shiflet, Director, Ecological Sciences, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, telephone (202) 447-2587.

SUPPLEMENTARY INFORMATION: On May 24, 1977, the President issued a comprehensive environmental message that included Executive Order (E.O. 11990, Protection of Wetlands.

To implement the President's Executive Order on Protection of Wetlands, SCS promulgated rules and regulations for wetland protection (44 FR 147, pages 44464-44467, July 30, 1979). Since that time, questions have arisen about policy interpretation and implementation, and concern has been expressed about conflicts between conserving wetlands and protection of other resources.

A review showed a need to provide a margin of flexibility with respect to SCS technical assistance for new construction in wetlands when denial of such assistance could lead to detrimental consequences on soil and water resources or on human welfare and safety. Based on this finding, new rules were proposed (46 FR 206, pages 52119-52121, October 26, 1981) for public review and comment. During the review period. SCS received 247 written comments on the proposed rules, most of which contained specific and detailed suggestions for improving them.

SCS evaluated the proposed rules in light of the comments received and their relation to E.O. 11990. SCS staff analyzed each comment and developed recommendations for responding to them. There was no clear majority of comments in favor of or opposed to the proposed rules.

When SCS determined that comments raised valid issues, the rules were modified accordingly if E.O. 11990 supported modification. When reasons supporting the rules were stronger than those for challenging them, the rules were left unchanged. The full text of all comments received is on file and available for public inspection in room 6153, Agriculture South Building, USDA, SCS, Ecological Sciences, Washington, D.C. 20013.

The more significant comments, described section by section, and SCS responses to them are as follows:

Comments on § 650.26(a) Background

Comment: The value of wetlands is more appropriately recognized in technical publications than in a policy statement.

Response: SCS agrees. This section has been deleted in the final rules and replaced with a new section that states the purpose of the rules.

Comments on § 650.26(b) Applicability

Comment 1: The proposed rule continues to use the wetland classification system described in U.S. Fish and Wildlife Circular 39. Consideration should be given to using the new classification system proposed by Cowardin et al. in *Classification of Wetlands and Deepwater Habitats of the United States* (FWS/OBS—79/39).

Response: SCS has not adopted the new system, nor does it officially use the system for defining wetlands at present because (1) the system is not fully operational because the lists of hydric soils and hydrophytic vegetation are incomplete (these lists are used in conjunction with the definition of wetlands), and (2) SCS has identified several unresolved problems believed to be obstacles to successful use of the new system within the agency.

Comment 2: Objection was raised to exemption from these rules of projects under construction or to projects for which all funds have been appropriated through FY 1977. It was suggested that the rules apply to all projects because unaltered wetlands exist in some project areas that have been under construction for years.

Response: Exemption of projects for which all funds have been appropriated through FY 1977 or projects that were under construction before May 24, 1977, is consistent with Section 8 of Executive

Order 11990, Protection of Wetlands, so the exception was not changed.

Comment 3: Changing the rules while maintaining previous applicability dates, without a grandfather clause, may require changes in projects whose final plans were developed under earlier rules. A grandfather clause should be added.

Response: SCS has revised the applicability section of the rules to include the following statement: "This policy applies to all activities for which planning is initiated after the date these rules are issued. Planning activities initiated before that date will use rules in effect at that time."

Comment 4: Suggestions were made that the following be added to the applicability section as categories for which the rules do not apply:

a. Areas that are part of a farming operation, such as man-made irrigation or drainage ditches, tailwater return systems, and irrigation reservoirs that are part of the farm irrigation system.

b. Wet areas created by excessive runoff and seepage from artificially created systems. This category included two subcategories:

(i) Irrigation canals or storage systems constructed by private landowners or private irrigation districts,

(ii) Public facilities such as public irrigation districts or municipal domestic water delivery or storage systems.

Response: SCS uses the description of wetlands as contained in U.S. Fish and Wildlife Service Circular 39. If areas described in the comment conform to the water and vegetative conditions characterizing one of the 20 types of wetlands in Circular 39, these rules are applicable. SCS believes the types of wetlands described in Circular 39 meet the definition of wetlands in E.O. 11990, Protection of Wetlands. It is possible, however, that some of these areas could be exempted if conditions in Section (e) of this rule are met. Therefore, SCS has retained the original wording.

Comment 5: The question was raised whether or not these rules should be applicable to set-aside programs (cropland diversion programs).

Response: SCS believes that this rule as written applies to set-aside programs. Cropland acreage involved in set-aside programs legally keeps its cropping history. The years that it is in the set-aside program will be counted as being farmed; therefore, no penalty would result from this rule, and no modification of the rule is needed.

Comments on § 650.26(c)(1) Policy. Environmental Evaluation

Comment: Many reviewers found this section confusing and stated that it should be rewritten to clarify the intent of environmental evaluations in identifying and evaluating practicable alternatives to avoid action that may destroy or degrade wetlands.

Response: SCS has rewritten and clarified this section, which is now Section (c), *General Policy.* The section has been modified to indicate that the environmental evaluation identifies and evaluates practicable alternatives to avoid action that may destroy or degrade wetlands. Factors to determine practicability have also been added to Section (d)(2).

Comments on §650.26(c)(2) Compliance With Sections 1(a) and 2(a) of E.O. 11990 (650.26(d) "Specific Policy" in the Final Rules)

Comment 1: Numerous reviewers opposed any restrictions on SCS's rendering technical assistance for new construction in wetland types 1 and 2 because these wetlands are normally prime farmland and should be developed for agricultural purposes. Conversely, a considerable number of reviewers opposed SCS's providing any technical assistance that might result in new construction in wetlands.

Response: E.O. 11990 directs each agency to provide leadership and take action to minimize the destruction, loss, or degradation of wetlands. The Order also directs that any action for new construction in wetlands include all practicable measures to minimize harm to wetlands. SCS believes that wetland types 1 and 2 as defined in Circular 39 are included as part of this directive, whether prime farmland or not. Additionally, wetlands normally would not be classified as prime farmland under SCS criteria (7 CFR 657.5). Under these rules, an exception to the policy prohibiting assistance for new construction in wetlands may be granted if the criteria in Section (e) are met. One of the economic factors considered in granting an exception may be the fact that the area to be converted has potential to be prime farmland. Therefore, no change has been made.

Comment 2: Several reviewers felt that if SCS assistance for new construction in wetland types 1 and 2 could be provided under certain limited circumstances, then assistance for new construction in wetland types 7 and 8 should also be provided under the same circumstances.

Response: The restriction on providing assistance for new construction in wetland types 7 and 8 is an internal SCS policy decision supported by Section 1(a) of E.O. 11990, which states: "Each agency shall provide leadership and shall take action to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands." However, Section (e), *Exceptions,* of this rule does permit assistance on any wetland type under certain very limited circumstances.

Comment 3: Considerable comment was received concerning the criterion that before SCS assistance could be provided for new construction in wetlands, the land had to have been cultivated to produce food, feed, fiber, and/or oilseed for at least 3 of 5 years before the request for assistance. Comments included: (1) A longer time out of cultivation should be required, and (2) irrigated pastures that remain in hay or pasture for 10–15 years without cultivation should be considered cropland.

Response: Cultivated land as defined in the rules may include cropping systems consisting of row crops and rotation hay or pasture seedings. Such rotation hay or pasture crops may be in the rotation for 3 or more years without tillage. Thus, time out of cultivation may exceed 3 years if it is part of the planned crop rotation.

The intent of SCS is to exclude permanent pasture and haylands from the definition of cultivated land. Consequently, no changes have been made.

Comment 4: A number of reviewers stated that a land user's intent to convert a wetland (demonstrated by possession of applicable permits or documentation showing that no permit is required) is not a valid criterion for SCS to use in granting assistance for new construction in wetland types 1 or 2.

Response: SCS does not believe that the act of obtaining all necessary permits, in itself, meets the mandates of Section 1(a) and Section 2(a) of Executive Order 11990. Land user's intent is only one of three criteria. Demonstrated intent to convert the wetland with or without SCS assistance must be accompanied by an environmental evalution documenting that there is (a) no practicable alternative and (b) a potential adverse effect on the soil resource base or offsite receiving waters unless an appropriate conservation system is installed.

Comment 5: Several reviewers commented that the policy of providing assistance when landowners have demonstrated an intent to construct in wetlands, and when installation of a conservation system is needed to avoid adverse impacts, is poorly defined. Detailed criteria for the use of this section should be developed or policy

will be hopelessly plagued by differing interpretations in the field.

Response: SCS has reliable technical procedures to accurately determine potential soil loss and associated water quality effects from a change to agricultural land use and management (e.g., Universal Soil Loss Equation). SCS believes that the use of these procedures will prevent differing interpretations in the field. Therefore, only editorial changes for clarity have been made in this section.

Comment 6: Concern was raised about SCS's ability to enforce the implementation and maintenance of comprehensive conservation plans that contain wetland mitigation features.

Response: Conservation plans under certain cost-share programs (such as the Water Bank Program, Great Plains Conservation Program, etc.) are legally binding contracts between USDA and the land user. Where contracts do not exist, SCS will actively work with the land user to implement and maintain the voluntary conservation plan containing the mitigating features. The rule has been revised to reflect this change.

Comment 7: Some reviewers felt that altering wetland types 1 and 2 should not require mitigation.

Response: SCS believes that E.O. 11990 applies to all wetland types. Mitigation is a means of minimizing unavoidable loss of all wetland types. Therefore, SCS has retained the mitigation clause.

Comment 8: Several comments suggested that technical assistance should be allowed for new construction in wetlands for improved upland habitat. Conversely, other comments suggested that all mitigation be "in-kind," thus assuring the preservation of wetland values.

Response: SCS believes that E.O. 11990 intends that agencies use all practicable means to preserve wetland values and that categorical substitution of upland habitat for wetlands is not in keeping with the intent of E.O. 11990. SCS rules provide for the protection of wetland values to the extent practicable, including mitigation actions. The rules have been modified to specify wetland habitat values rather than habitat values.

Comment 9: Several comments expressed concern over the provision allowing SCS to provide technical assistance involving "minor alterations" in wetland types 1 through 20. Some requested further definition of "minor."

Response: SCS will rely on the documented environmental evaluation called for in § 650.26(c) as sufficient assurance that the scope of minor alterations will not be misinterpreted. Sound judgment must be applied in interpreting the date provided by the environmental evaluation.

Comment 10: It was suggested that State wildlife agencies and the U.S. Fish and Wildlife Service be required to concur in all plans designed to improve wetlands for fish and wildlife and in granting exceptions. Another comment suggested interagency involvement to determine relative habitat values when identifying alternatives or mitigation measures.

Response: State wildlife agencies and the U.S. Fish and Wildlife Service are customarily involved in interagency environmental assessments of SCS assisted project-type activities such as PL–566 projects for watershed protection and flood prevention. However, SCS believes it is impractical to obtain such involvement in individual on-farm cases. SCS has a cadre of professionally educated and trained biologists who will be continuously involved in these day-to-day activities.

Comment 11: Some comments expressed concern about the lack of a clear definition of criteria for determining relative habitat values.

Response: SCS uses a variety of evaluation procedures to determine relative habitat values. The specific procedure used varies from State to State but the U.S. Fish and Wildlife Service Habitat Evaluation Procedure (HEP) is perhaps the most widely used. SCS believes that these procedures adequately define the criteria used to determine relative habitat values.

Comments on § 650.26(c)(3) Exceptions

Comment 1: The authority to make exceptions and to separate high- and low-value wetlands as contained in this section was questioned.

Response: The basis of authority for such exceptions and separation of high- and low-value wetlands is taken from Section 2(a) of Executive Order 11990, which states that "each agency, to the extent permitted by law, shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use. In making this finding the head of the agency may take into account economic, environmental and other pertinent factors."

SCS believes that its environmental evaluation process includes the specific criteria to identify practicable alternatives if they exist. In addition, the definition of a practicable alternative and the criteria for making this determination have been added to the rules in Section (d)(2).

Comment 2: Some comments expressed concern about implications of the small (usually 2 acres or less) low-value criterion as a basis for exception.

Response: Under the proposed rule, the "2-acre or less" limitation was provided only as a guide. It was to be used only in conjunction with small areas determined by environmental evaluation to be of low wetland value. SCS recognizes the existence of small wetlands that are important and highly valuable. The "2-acre or less" guide did not apply to these high-value areas. To better reflect the intent, SCS has removed the numerical guide.

Comment 3: Exceptions should be granted if wetland alteration will improve farm efficiency and energy conservation.

Response: SCS believes that greater farm efficiency and energy conservation, when evaluated alone, are not sufficient criteria for making the environmental evaluation or sufficient basis for granting an exception. According to Section 2(a) of Executive Order 11990, the head of an agency may grant an exception after considering economic, environmental, and other pertinent factors. SCS believes that greater farm efficiency and energy conservation could be a part of the economic considerations for granting exceptions; therefore, no changes were made in the rule.

A determination has been made pursuant to the provisions of Executive Order 12291 that the regulation is not a major rule; therefore, preparation of a regulatory impact analysis is not required. The regulation concerns agency policy and guidelines for compliance with Executive Order 11990, Protection of Wetlands.

It has also been determined, pursuant to requirements of the Regulatory Flexibility Act (Pub. L. 96–534), that the regulations do not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 650

Environmental impact statements, Endangered and threatened species, Natural resources, Visual resources, Flood plains.

PART 650—COMPLIANCE WITH NEPA

Section 650.26 of Subpart B, Related Environmental Concerns, of Title 7 of the Code of Federal Regulations is revised as follows:

§ 650.26 Protection of wetlands.

(a) *Purpose.* This rule prescribes procedures by which SCS will implement the President's Executive Order on Protection of Wetlands (E.O. 11990).

(b) *Applicability.* This policy applies to SCS technical and financial assistance that will result in new construction (which includes draining, dredging, channelizing, filling, diking, impounding, and related activities, and any structures or facilities) in wetland types 1 through 20 as described in Circular 39, published by the U.S. Department of the Interior, Fish and Wildlife Service, in 1956 and reprinted in 1971. This policy applies to all activities for which planning is initiated after these rules are issued. Planning activities initiated before that date will use rules in effect at that time. These rules do not apply to wetlands with the following conditions or in the following categories:

(1) Lands that were artificially diked and flooded to produce, and have a cropping history of producing crops such as fish, crayfish, domestic rice, wild rice, or cranberries.

(2) Projects or actions to reclaim rural abandoned mines (Section 406, Surface Mining Control and Reclamation Act of 1977) when the primary purpose of the action is to protect public health, safety and welfare, and when no practical alternative exists for mitigation of wetland habitat values lost.

(3) Construction in wetland that is primarily for managing the area for wetland wildlife habitat.

(4) Projects or actions that were under construction before May 24, 1977.

(5) Projects or actions for which all funds have been appropriated through fiscal year 1977.

(6) Projects or programs for which a draft or final environmental impact statement was filed before October 1, 1977.

(c) *General policy.* It is the policy of SCS to aid in protecting, maintaining, managing, and restoring wetlands to ensure continued realization of their beneficial values while protecting the soil and water resource base for a viable economic agricultural enterprise. As a means of recognizing this balance between resource uses, SCS uses an environmental evaluation (§ 650.5 of this part). This evaluation, initiated in the early stages of planning, includes identification and study of practicable alternatives to actions that may destroy or degrade wetlands as well as consideration of actions that may preserve and enhance natural beneficial values of wetlands. Factors considered in the environmental evaluation are—

(1) Public health, safety, and welfare, including water supply, quality, recharge, and discharge; pollution; flood and storm hazards; and sedimentation and erosion;

(2) Maintenance of natural systems, including conservation and long-term productivity of existing flora and fauna, species and habitat diversity and stability, hydrological utility, and fish, wildlife, timber, and food and fiber resources; and

(3) Other uses in the public interest, including recreation and scientific and cultural uses.

(d) *Specific policy.* Within the above general policy and on the basis of an environmental evaluation, the following specific policy applies:

(1) SCS will not provide assistance for new construction in wetland types 3 through 20 except as outlined in §§ 650.26(d)(4), 650.26(d)(5), and 650.26(e).

(2) A decision to provide SCS assistance for new construction in wetland types 1 and 2 must be based on a documented environmental evaluation indicating that there is no practicable alternative to the proposed construction and that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such action. A practicable alternative is one that can be carried out under all present constraints. The test of what is practicable varies in each situation, but includes consideration of the following factors—

(i) Environmental—fish and wetland wildlife habitat, soil erosion, water quantity and quality, flooding, groundwater recharge, and recreation;

(ii) Economics—cost effectiveness, including changes in farm operating cost attributed to labor, equipment, timeliness, and convenience of farm operation;

(iii) Resource suitability—ability of soil, water, and related resources to support the intended use;

(iv) Technology—availability of technology to reasonably accomplish the objectives;

(v) Other pertinent factors.

(3) Besides the lack of a practicable alternative, the decision to provide assistance for new construction in wetland types 1 and 2 must be based on a documented environmental evaluation which indicates:

(i) The land has been cultivated to produce food, feed, fiber, and/or oilseed for at least 3 of the 5 years before the request for assistance (cultivated is defined as any cropping system that depends on soil tillage, planting of seed, and appropriate care of the crop. Such cropping systems may consist of row crops and crop rotations that include hay and pasture seedings, even though such hay or pasture crops may be maintained in the crop rotation for 3 or more years without tillage. Native pastures, native prairie types, forestlands, and rangelands are not included); or

(ii) All necessary local, State, and Federal permits have been obtained, or the land user has been assured by appropriate agencies that a permit is not needed; and where—

(A) Environmental factors such as topography, soils, and climate, when evaluated in light of the proposed action, demonstrate the need to install a conservation system that will minimize future adverse effects on the soil resource base or offsite receiving waters; and

(B) The land user agrees, in those instances where he enters into a contract with USDA, to implement and maintain a comprehensive soil and water conservation plan that includes essential treatment to minimize adverse consequences to the soil resource base and offsite receiving waters, to provide management of wildlife habitat compatible with the new or existing land use, and to preserve or improve wetland types 3 through 20. Where contracts with the land user do not exist, SCS will actively work with the land user to implement and maintain a voluntary conservation plan.

(4) In wetland types 1 through 20, assistance may be provided in making minor alterations if the environmental evaluation demonstrates that the net result of alteration and accompanying management of the area will provide wetland habitat values equal to or greater than those present before the alteration.

(5) If wetland types 1 through 20 would be drained or otherwise altered because of structural measures designed for other purposes, land users and project sponsors will be advised of alternatives that will avoid or mitigate the incidental loss of these wetlands. Alternative treatments and/or mitigation measures, insofar as practicable, will ensure that wetland habitat values obtained are equivalent to those lost. SCS will provide assistance only if one of the alternatives is selected for installation or adequate mitigation is agreed to. Provisions are to be made for managing these established wetlands to ensure that wetland habitat values obtained remain equal to or greater than those lost, insofar as practicable. Persons, organizations, or agencies other than the land user or

project sponsors may assume these management responsibilities.

(6) SCS will encourage land users and project sponsors to consider and use programs of other Federal, State, and local agencies and private organizations that may help to preserve wetlands.

(7) Besides complying with this rule and Executive Order 11990, in Minnesota, North Dakota, and South Dakota, SCS will follow the provisions of Section 16A of the Soil Conservation and Domestic Allotment Act; Pub. L. 87–732, 16 U.S.C. 590 P–1, October 2, 1962.

(e) *Exceptions.* (1) State conservationists may grant written exceptions to these rules only—

(i) On a farm-by-farm basis for installing irrigation water management, water conservation, water quality, or erosion control systems, or where small, low-value wetlands occur as inclusions within cropland, hayland, or pastureland fields; or

(ii) For drainage or flood control measures in small rural communities where the purpose of the action is solely for protection of public health and safety.

(2) Upon application from a state conservationist, the SCS Chief may grant a written exception to this rule taking into account economic, environmental, and other pertinent factors in such proposed actions.

(3) The above exceptions shall be based on a documented finding that—

(i) There is no practicable alternative to the proposed activity, and

(ii) The proposed action includes all practicable measures to minimize any resulting loss to wetlands.

(f) *Public review.* SCS will provide an opportunity for early public review of any project plans or proposals for new construction in wetlands, as described in § 650.9(d) of this part.

(7 CFR 2.62: Executive Order 11990)

Dated: July 23, 1982.

Peter C. Myers,

Chief.

(Catalog of Federal Domestic Assistance Programs numbered 10.900 (Great Plains), 10.901 (Resource Conservation and Development), 10.902 (Soil and Water Conservation), 10.904 (Watershed Protection Conservation and Flood Prevention), and 10.905 (Plant Materials). Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable)

[FR Doc. 82–21107 Filed 8–5–82, 8:45 am]

BILLING CODE 3410–16–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 371]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period August 8–14, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 8, 1982.

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

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

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

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on August 3, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier than it was last week.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.671 is added as follows:

§ 910.671 Lemon Regulation 371.

The quantity of lemons grown in California and Arizona which may be handled during the period August 8, 1982, through August 14, 1982, is established at 225,000 cartons.

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

Dated: August 5, 1982.

Russell L. Hawes,

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

[FR Doc. 82–21578 Filed 8–5–82, 11:36 am]

BILLING CODE 3410–02–M

7 CFR Part 917

[Pear Reg. 12, Amdt. 1]

Fresh Bartlett Pears Grown in California; Amendment of Grade, Size, and Container Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the current minimum grade, size, and container regulation for shipments of fresh California Bartlett, Max-Red Bartlett, and Red Bartlett varieties of pears, by lowering the grade requirement for the period August 5–December 1, 1982, by exempting pears in bulk bins containing 300 pounds or more from requirements limiting size variation of the fruit, and by deleting obsolete language pertaining to organically

grown pears. Such action is designed to promote orderly marketing of fresh California pears in the interest of producers and consumers.

DATES: Effective on and after August 5, 1982.

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

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California pear crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Pear Commodity Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The Pear Commodity Committee met June 29, 1982, to consider supply and market conditions and other factors affecting the need for regulation. The committee estimates 1982 season California fresh pear shipments at 3,236 cars compared with actual shipments of 4,080 cars last season. The committee reports that the 1982 California pear crop suffered damage due to prolonged wet weather during the bloom period, especially in the early blooming districts, and due to an intense hail storm in Lake County in May. The committee reviewed the current grade, size, and container regulation, and on the basis of its appraisal of current crop conditions, along with supply and demand factors, recommended lowering the grade requirements for pears to U.S. Combination, 70 percent U.S. No. 1, for the period August 5, 1982–December 1, 1982, compared with the current requirement of U.S. Combination, 80 percent U.S. No. 1. The committee also recommended exempting pears shipped in bulk bins containing 300 pounds or more of pears from the requirements which limit the size variation of fruit shipped in open containers. Pears in large bulk bins are packed and marketed in a manner different from those in smaller shipping containers, making it impracticable to limit the size variation of the fruit in such bins.

Grade and size requirements are designed to ensure the shipment of ample supplies of better grades and more desirable sizes of fresh Bartlett pears in the interests of consumers and producers. The industry believes that should shipments of fresh pears include immature, poor quality, and excessively small fruit, the marketability of the entire crop would be adversely affected. This type of fruit arriving on the fresh market creates consumer resistance to pears, resulting in a decline of repeat purchases. Container requirements are designed to prevent deceptive packaging practices and to promote buyer confidence. The CFR designation "(7 CFR 51.1260–51.1280)" in paragraph (b)(3) of § 917.461, has been revised consistent with redesignations appearing in **Federal Register** (46 FR 63203). The redesignation only revised the numbering system, and the grade standards remain the same. Language in § 917.461, which expired July 31, 1982, had provisions relating to organically grown pears. The committee took no action to extend these provisions. They are therefore obsolete and being removed from the CFR text.

To minimize disruption as much as possible and still bring this marketing order into compliance with the Secretary's guidelines for fruit, vegetable, and specialty crop marketing orders issued January 25, 1982, this amendment is being issued with the understanding that the Pear Commodity Committee will initiate certain actions during 1982. These actions are necessary so that operations under the program will conform with the guidelines. The guidelines state that orders such as this one which contain quality provisions should not be used as a form of supply control. In evaluating quality control programs, emphasis is placed on: (1) Whether quality controls have varied significantly from season to season or within seasons; (2) whether the percentage of product meeting minimum quality standards has been declining; or (3) whether the standards have been tightened over the years. In addition, to conform with the guidelines, this marketing order should contain a limitation on committee tenure.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making this final rule effective as specified in that (1) shipment of the pear crop is currently underway; (2) the amended regulation was recommended by the committee following discussion at a public meeting; (3) pear handlers have been apprised of these amended requirements and the effective date; and (4) the regulations on the handling of pears are being relieved.

List of Subjects in 7 CFR Part 917

Marketing agreements and orders, Pears, Plums, Peaches, California.

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Therefore, the provisions of § 917.461 (7 CFR Part 917) are amended by revising paragraphs (a), (a)(1), (a)(5), and (b)(3), and by removing paragraphs (a)(1)(i), (a)(1)(ii), (a)(1)(iii), and (b)(5) to read as follows:

§ 917.461 Pear Regulation 12.

(a) On and after August 5, 1982, no handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. Combination with not less than 80 percent, by count, of the pears grading at least U.S. No. 1: *Provided,* That during the period August 5, 1982, through December 1, 1982, no handler shall ship any such varieties of pears unless they grade at least U.S. Combination with not less than 70 percent, by count, of the pears grading at least U.S. No. 1.

* * * * *

(5) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in other than a closed container, unless such pears do not vary more than ⅝ inch in their transverse diameter for counts 120 or less, and ¼ inch for counts 135 to 165, inclusive: *Provided,* That 10 percent of the containers in any lot may fail to meet the requirements of this subparagraph: *Provided further,* That such varieties of pears shipped in bulk bin containers containing 300 pounds or more of pears shall be exempt from the requirements in this subparagraph.

* * * * *

(b) * * *

(3) "U.S. No. 1" "U.S. Combination", and "Standard Pack" mean the same as defined in the United States Standards for Summer and Fall Pears (7 CFR 51.1260–51.1280).

* * * * *

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

Dated: August 2, 1982, to become effective August 5, 1982.

Russell L. Hawes,

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

[FR Doc. 82-21366 Filed 8-5-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 932 and 944

[Olive Reg. 1; Interim Amdt. 2]

Olives Grown in California; Amendment of Subpart—Rules and Regulations, and Fruits: Import Regulations; Imports of Ripe Olives

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule revises the modified minimum grade requirements for marketing order purposes for styles of canned ripe olives grown in California. The change is necessary so that these requirements reference the U.S. grade standards and inspection practices. The interim rule also extends the effective date of a rule currently effective through July 31, 1982, and applicable to imports of ripe olives, and makes additional changes in that rule. The changes are necessary to bring the import requirements into conformity with the revised requirements for canned California olives and current inspection practices.

DATES: Interim rule effective August 11, 1982; through November 30, 1982; comments which are received by October 1 will be considered prior to issuance of a final rule to become effective on and after December 1, 1982.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

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

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of California olives for the benefit of producers, and will not substantially affect costs for those persons directly regulated.

The amendment of § 932.149 of Subpart—Rules and Regulations (47 FR 13118) is issued under the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932; July 30, 1982, 47 FR 32905), regulating the handling of olives grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Olive Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

Section 932.52 provides that no handler shall use processed olives in the production of packaged olives or ship such packaged olives unless they have first been inspected as required pursuant to § 932.53 and meet the outgoing minimum grade and size requirements specified in § 932.52, unless such requirements are modified by the committee with the approval of the Secretary.

Currently, § 932.149 contains such modifications. These modifications apply the same terms and conditions as were prescribed in 1971 (36 FR 16567) for U.S. Grade C (or U.S. Grade B with respect to character of canned whole, pitted, and broken pitted olives) in the U.S. Standards for Grades of Canned Ripe Olives (§§ 52.3751-52.3766 of this title; 36 FR 16567).

The committee recommended, however, that § 932.149 should be revised as hereinafter set forth to reference current U.S. Standards (as amended in 1981 (46 FR 39563)) and inspection practices. The major change is the incorporation of Table I, Limits for Defects, in lieu of the tolerances for defects contained in said U.S. Standards.

Imports of canned ripe olives are regulated under Olive Regulation 1 (§ 944.401; 47 FR 747), an interim rule effective through July 31, 1982, which was issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). Section 8e requires that whenever specified commodities, including olives other than Spanish-style green olives, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements as those in efffect for the domestically produced commodity. Olives grown in California are regulated under the marketing agreement, as amended, and Marketing Order No. 932, as amended (7 CFR Part 932).

Section 944.401 (Olive Regulation 1) should be amended (as an interim rule effective through November 30, 1982) and, as hereinafter set forth, to conform with the revised § 932.149.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this interim rule until 30 days after publication in the Federal Register (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that: (1) The changes are of conforming nature and olive handlers require no advanced preparation time; (2) the olive import requirements are mandatory under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended; and (3) three days notice, the minimum prescribed by section 8e, is provided with respect to this import regulation.

List of Subjects in 7 CFR Parts 932 and 944

Marketing agreements and orders, Olives, California, Imports, and Food grades and standards.

Therefore, §§ 932.149 and 944.401 (47 FR 747) are revised as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

1. Section 932.149 is revised to read as follows:

§ 932.149 Modified minimum grade requirements for specified styles of canned olives of the ripe type.

(a) Except as otherwise provided in this section, the minimum grade requirements prescribed in § 932.52(a)(1) are modified as follows, for specified styles of canned olives of the ripe type:

(1) Canned whole, pitted, and broken pitted olives of the ripe type shall grade at least U.S. Grade C: *Provided,* That such olives shall meet the requirements of U.S Grade B with respect to character;

(2) Canned chopped olives of the ripe type shall grade at least U.S. Grade C and shall be practically free from identifiable units of pit caps, end slices, and slices ("practically free from identifiable units" means that not more than 5 percent, by weight, of the unit of chopped style olives may be identifiable pit caps, end slices, or slices); and

(3) Canned halved, segmented (wedged) and sliced olives of the ripe type shall grade at least U.S. Grade C;

(b) Terms used in this section shall have the same meaning as are given to the respective terms in the current U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52) including the

terms "U.S. Grade B", "U.S. Grade C", "size", "character", "defects", and "Ripe Type": *Provided,* That Table I of this section shall apply in lieu of the tables for limits for defects contained in said standards; and *Provided further,* That with respect to defects used in Table I that are not defined in such current U.S Standards, the following definitions of defects shall apply:

(1) *Broken Piece.* A "broken piece" in halved, segmented, and sliced styles is any piece of olive flesh that appears to be less than three-fourths of a full unit. Also included are poorly cut units and end slices less than one-half the average slice size.

(2) *Mechanically Damaged.* A "mechanically damaged" unit in whole, pitted and halved styles means a unit that is punctured, cut, or damaged by means other than pitting so that its appearance is materially affected.

(3) *Harmless Extraneous Vegetable Material.* Harmless Extraneous Vegetable Material (HEVM), harmless extraneous material (HEM), and extraneous vegetable material (EVM) are synonymous terms and mean any vegetable substance that is harmless.

(4) *Obvious Split Pit.* Obvious split pit means an olive containing a pit that can be determined visually as split.

(5) *Misshapen.* Misshapen means an olive that does not have a normal shape for a given variety of olives.

(c) With respect to the provisions of paragraph (a) of this section, any packaged olives of the specified styles, using olives harvested prior to (insert effective date) may be shipped if such packaged olives comply with the applicable requirements in effect, under this part, immediately prior to such date.

TABLE I.—LIMITS FOR DEFECTS

	Whole per 50 olives	Pitted per 50 olives	Halves per 100 olives	Segmented per 255 gm (9 oz)	Sliced per 255 gm (9 oz)	Chopped per 255 gm (9 oz)	Broken pitted per 255 gm (9 oz)
HEVM, HEM or EVM	1	1	1	2	Fairly free	Fairly free	2.
Stems:							
Minor and major stems included	3	3	4				
Major stems	2	2	2	3	3	3	4.
Minor and major blemishes, minor and major wrinkles and mutilated	10	10	No limit	Fairly free	Fairly free	Fairly free	No limit.
Provided: major blemishes major wrinkles do not exceed	5	5	25				51 gm.[1]
Further provided: Mutilated do not exceed	3	3					
Broken pieces and poorly cut units			25	Fairly free	Fairly free		
Mechanical damage	5	5	20				
Blowouts, cross-pitted, plunger and pitter damage		15					
Obvious split-pit or misshapen	5						
Severe blemishes (green-ripe type only)	0	0	5				

[1] Major blemishes only.

PART 944—FRUITS; IMPORT REGULATIONS

2. Section 944.401 (47 FR 747) is amended by: Removing paragraph (i) and renumbering paragraph (j) as paragraph (i); amending renumbered paragraph (a) by revising (a) (1) and (7) and adding (8); amending renumbered paragraph (i) by revising the introductory paragraph and (i)(7), and by adding (i)(8); and revising paragraphs (b), (c), (d), (e) and (f) to read as follows:

§ 944.401 Olive Regulation 1.

(a) *Definitions.*

(1) "Canned ripe olives" means olives in hermetically sealed containers and heat sterilized under pressure, of the two distinct types "ripe" and "green-rip" as defined in the current U.S. Standards for Grades of Canned Ripe Olives. The term does not include Spanish-style green olives.

* * * * *

(7) "Limited use" means the use of processed olives in the production of packaged olives of the halved, segmented (wedged), sliced, or chopped styles, as defined in said standards.

(8) Terms used in this section shall have the same meaning as are given to the respective terms in the current U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52) including the terms "U.S. Grade B", "U.S. Grade C", "size", "character", "defects", and "ripe type": *Provided,* That with respect to defects used in Table I of § 932.149 (and cited herein) that are not defined in such current U.S. Standards, the definitions of those defects contained in that section shall apply:

(b) The importation into the United States of any canned ripe olives is prohibited unless such olives are inspected and meet the following applicable requirements: *Provided,* That olives imported in bulk form and used in the production of any canned ripe olives are subject to such applicable requirements and the additional requirements in paragraph (b)(12) of this section.

(1) Canned ripe olives shall grade at least U.S. Grade C: *Provided,* That with respect to defects, the limits for defects as contained in Table I of § 932.149 shall apply as shall the requirements of U.S. Grade B for Character for canned whole, pitted and broken pitted olives, and the requirement that canned chopped olives be practically free from identifiable units of pit caps, end slices, and slices as defined in § 932.149(a)(2): *Provided further,* That during the period September 1, 1981 through July 31, 1983, no requirements shall be applicable with respect to color and blemishes for canned green ripe olives imported during such period;

(2) Canned whole ripe olives of Variety Group 1, except the Ascolano, Barouni, and St. Agostino varieties, shall be of such a size that not more than 25 percent, by count, of the olives may weigh less than $\frac{1}{5}$ pound (6.0 grams) each, except that not more than 10 percent, by count, of the olives may weigh less than $\frac{1}{82}$ pound (5.5 grams) each;

(3) Canned whole ripe Variety Group 1 olives of the Ascolano, Barouni, and St. Agostino varieties, shall be of such a size that not more than 25 percent, by count, of the olives may weigh less than $\frac{1}{88}$ pound (5 grams) each except that not more than 10 percent, by count, of the olives may weigh less than $\frac{1}{98}$ pound (4.6 grams) each;

(4) Canned whole ripe olives of Variety Group 2, except the Obliza variety, shall be of such a size that not more than 35 percent, by count, of the olives may weigh less than $\frac{1}{140}$ pound (3.2 grams) each except that not more than 7 percent, by count, of the olives may weigh less than $\frac{1}{160}$ pound (2.8 grams) each;

(5) Canned whole ripe Variety Group 2 olives of the Obliza variety, shall be of such a size that not more than 35 percent, by count, of the olives may weigh less than $\frac{1}{121}$ pound (3.7 grams)

each except that not more than 7 percent, by count, of the olives may weigh less than 1/35 pound (3.3 grams) each;

(6) Canned whole ripe olives not identifiable as to variety or variety group shall be of such a size that not more than 35 percent, by count, of the olives may weigh less than 1/40 pound (3.2 grams) each except that not more than 7 percent, by count, of the olives may weigh less than 1/60 pound (2.8 grams) each;

(7) Canned pitted ripe olives of Variety Group 1, except the Ascolano, Barouni, and St. Agostino varieties, shall be of such a size that not more than 25 percent, by count, of the olives may measure less than 21 millimeters in diameter;

(8) Canned pitted ripe Variety Group 1 olives of the Ascolano, Barouni, and St. Agostino varieties, shall be of such a size that not more than 25 percent, by count, of the olives may measure less than 19 millimeters in diameter;

(9) Canned pitted ripe olives of Variety Group 2, except the Obliza variety, shall be of such a size that not more than 35 percent, by count, of the olives may measure less than 16 millimeters in diameter;

(10) Canned pitted ripe Variety Group 2 olives of the Obliza variety, shall be of such a size that not more than 35 percent, by count, of the olives may measure less than 17 millimeters in diameter;

(11) Canned pitted ripe olives not identifiable as to variety or variety group shall be of such a size that not more than 35 percent, by count, of the olives may measure less than 16 millimeters in diameter;

(12) Imported bulk olives when used in the production of canned ripe olives must be inspected and certified as prescribed in this section: *Provided,* That such imported bulk olives may be used for limited use, but any such olives so used shall not be smaller than the following applicable minimum size:

(i) Whole ripe olives of Variety Group 1, except the Ascolano, Barouni, or St. Agostino varieties, of a size that not more than 25 percent, by count, of the olives may be smaller than 1/30 pound (5 grams) each.

(ii) Whole ripe olives of Variety Group 1 of the Ascolano, Barouni, or St. Agostino varieties of a size that not more than 25 percent, by count, of the olives may be smaller than 1/40 pound (3.2 grams) each.

(iii) Whole ripe olives of Variety Group 2, except the Obliza variety, of a size that not more than 20 percent of the olives by count, may be smaller than 1/80 pound (2.5 grams) each.

(iv) Whole ripe olives of Variety Group 2 of the Obliza variety of a size that not more than 20 percent, by count, of the olives may be smaller than 1/40 pound (3.2 grams) each.

(v) Whole ripe olives not identifiable as to variety or variety group of a size that not more than 20 percent of the olives, by count, may be smaller than 1/80 pound (2.5 grams) each.

(vi) Pitted ripe olives of Variety Group 1, except the Ascolano, Barouni, or St. Agostino varieties of a size that not more than 25 percent, by count, of the olives may measure less than 20 millimeters in diameter.

(vii) Pitted ripe olives of Variety Group 1 of the Ascolano, Barouni, or St. Agostino varieties of a size that not more than 25 percent, by count, of the olives may be smaller than 16 millimeters in diameter.

(viii) Pitted ripe olives of Variety Group 2, except the Obliza variety, of a size that not more than 20 percent of the olives, by count, may be smaller than 14 millimeters

(ix) Pitted ripe olives of Variety Group 2 of the Obliza variety of a size that not more than 20 percent, by count, of the olives may be smaller than 16 millimeters.

(x) Pitted ripe olives not identifiable as to variety or variety group of a size that not more than 20 percent, by count, of the olives may be smaller than 14 millimeters in diameter.

(c) The Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade and size of processed olives from imported bulk lots for use in canned ripe olives and the grade and size of imported canned ripe olives. Inspection by said inspection service with appropriate evidence thereof in the form of an official inspection certificate, issued by the service and applicable to the particular lot of olives is required. With respect to imported bulk olives, inspection and certification shall be completed prior to use as packaged ripe olives. With respect to canned ripe olives, inspection and certification shall be completed prior to importation. Any lot of olives which fails to meet the import requirements may be exported or disposed of under supervision of the Processed Products Branch, Fruit and Vegetable Division, AMS, USDA, with the costs of certifying the disposal borne by the importer. Such inspection and certification services will be available, upon application, in accordance with the applicable regulations governing the inspection and certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (Part 52 of this title). Application for inspection of canned ripe olives shall be made not less than 10 days prior to the time when the olives will be imported. Since inspectors are not located in the immediate vicinity of some of the small ports of entry, importers of canned ripe olives shall make arrangements for inspection through one of the following offices at least 10 days prior to the time when the olives will be imported:

Office and Telephone

Southeastern Regional Office, 98 Third Street, S.W., Winter Haven, Florida 33880, (813) 294–4218;

Central Regional Office, U.S. Custom House, Room 1014, 610 South Canal Street, Chicago, Illinois 60607, (312) 353–6217 or 6218;

Western Regional Office, 111 West St. John Street, Suite 416, San Jose, California 95113, (408) 275–7253.

Application for inspection of processed bulk olives shall be made not less than 3 days prior to use in the production of canned ripe olives. Such application shall be made through the following office:

Western Regional Office, 111 West St. John Street, Suite 416, San Jose, California 95113, (408) 275–7253.

(d) Inspection certificates shall cover only (1) the quantity of canned ripe olives that is being imported at a particular port of entry by a particular importer or (2) the quantity of canned ripe olives processed from a lot or sublot of imported bulk olives.

(e) Inspection shall be performed by USDA inspectors in accordance with said regulations governing the inspection and certification of processed fruits and vegetables and related products (Part 52 of this title). The cost of each such inspection and related certification shall be borne by the applicant therefore. Applications for inspection shall be accompanied by, or there shall be submitted promptly thereafter, either (1) an "on board" bill of lading designating the lots to be entered as canned ripe olives, (2) a list of such lots by variety and their identifying marks, or (3) a list identifying lots by variety of imported bulk olives.

(f) Nothwithstanding any other provisions of this regulation, any importation of canned ripe olives or olives imported in bulk for use in the production of canned ripe olives which, in the aggregate, does not exceed 100 pounds drained weight may be imported

without regard to the requirements of this section.

* * * * *

(i) Each inspection certificate issued with respect to canned ripe olives to be imported into the United States and canned ripe olives processed from a lot or sublot of imported bulk olives shall set forth among other things:

* * * * *

(7) The Consumption Entry Number for Canned Ripe Olives.

(8) The following statement if the facts warrant: Meets the U.S. import requirements under Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

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

Dated: August 3, 1982.

Russell L. Hawes,

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

[FR Doc. 82-21373 Filed 8-5-82; 8:45 am]

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FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 509 and 563

[No. 82-507]

Amendments Relating to Change in Control

Dated: July 29, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is adopting certain amendments to its regulations concerning changes in the control of savings and loan stock institutions and savings and loan institution holding companies. First, the presumption of control is being limited to transactions where a person would acquire the power to vote 10 percent or more of any class of voting securities of an insured institution which has voting securities that are registered under the Securities Exchange Act of 1934 (the "1934 Act") and that are actively traded. Second, notification of a subject institution is being eliminated with respect to the filing of either a notice of a proposed change in control ("Notice") or a rebuttal to the presumption of control. Third, a Notice is not to be disclosed to the public, except upon the consent of the acquiring person, consummation of the transaction, disapproval of the proposed acquisition, or when the Notice otherwise becomes public. Fourth, except with respect to disapproval of a Notice, the Director of the Office of Examinations and Supervision with the concurrence of the General Counsel, or their designees, shall have delegated authority to take action under the regulations with regard to any institution or holding company which has a class of voting securities registered under the 1934 Act, and the Principal Supervisory Agent is delegated authority with regard to any institution or holding company which does not have a class of voting securities registered under the 1934 Act. Fifth, provisions regarding the period of review, additional information required to be filed with a Notice, and waivers are being clarified, along with the procedures to disapprove a Notice and to assess a civil penalty for any willful violations. The amendments are intended to lessen the regulatory burden on acquiring persons and to provide more efficient procedures for the review and processing of a Notice.

EFFECTIVE DATE: September 7, 1982.

FOR FURTHER INFORMATION CONTACT: John P. Harootunian, (202–377–6415), Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Background

The Change in Savings and Loan Control Act of 1978 ("Control Act"), Title VII of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, effective March 10, 1979, amended section 407 of the National Housing Act (12 U.S.C. 1730(q)) to require persons who intend to acquire control of a savings and loan stock institution, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC"), or a savings and loan institution holding company, as defined in section 408 of the National Housing Act (12 U.S.C. 1730a), (each referred to as an "insured institution" or "institution"), to give the FSLIC at least 60 days' prior written notice. The FSLIC is authorized by the Control Act to disapprove any such proposed acquisition on certain specified grounds. To implement the Control Act, temporary regulations substantially similar to those adopted by the bank regulatory agencies under the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)) were adopted by the Board, as the operating head of the FSLIC, on February 7, 1979 (44 FR 10500, February 12, 1979). After considering pubic comments and other information, the Board adopted permanent regulations on August 15, 1980 (45 FR 55693, August 21, 1980). After having had over three years' experience in administering the Control Act, the Board determined to review and revise its regulations relating to changes in the control of stock institutions (12 CFR 563.18–2).

On May 6, 1982, by Resolution No. 82-324 (47 FR 20616, May 13, 1982), the Board proposed for comment certain revisions to section 563.18–2. The Board received a total of six comment letters concerning the proposed amendments, five from insured institutions and one from a trade association. Except with regard to the proposed elimination of notification of a subject institution and the proposed amendments relating to disclosure, most comments were favorable. Therefore, the Board has determined to adopt the amended regulation substantially as proposed. Modifications have been made in proposed § 563.18–2(e)(2), to clarify procedures for a waiver in a supervisory case, in § 563.18–2(f), to clarify the language regarding disclosure, in § 563.18–2(k), to clarify procedures to be followed to assess a civil penalty for a willful violation of the Control Act, and in § 563.18–2(g)(1), to clarify the procedures regarding a disapproval and any agency hearing, with a corresponding revision to § 509.1 of the Board's rules of practice and procedures to add a new paragraph (h). The comments and the Board's final regulations are discussed below.

Presumption of Control

The Control Act requires 60 days' prior written Notice to the FSLIC whenever a person proposes to acquire control of an insured institution through the purchase, assignment, transfer, pledge or other disposition of the institution's voting stock. Control is defined in the Control Act as "the power, directly or indirectly, to direct the management or policies of an insured institution or to vote 25 per centum or more of any class of voting securities of an insured institution."

Under § 563.18–2(c)(2) of the Board's regulations, a rebuttable presumption of the power to direct the management or policies of an insured institution was raised whenever a person would acquire the power to vote 10 percent or more of any class of voting securities and (1) the institution has at least $250 million in assets and any class of voting securities held of record by 1200 or more persons, or (2) the person, after the acquisition, would hold the largest portion, or an amount equal to the largest shareholder's portion, of any class of voting stock.

The Board had proposed that the first criterion of the presumption be revised,

since the size of an institution and the number of its shareholders does not appear to be an appropriate basis for subjecting certain proposed acquisitions to regulation. The Control Act and the related legislative history do not indicate that there is any greater need to regulate acquisitions relating to large institutions as opposed to small institutions. See, H.R. Rep. No. 95–1383, 95th Cong. 2nd Sess. 7, *reprinted in* [1978] U.S. Code Cong. & Ad. News 9273, 9291. However, an acquisition which results in a person having the power to vote a significant amount of any class of an institution's voting securities, 10 percent or more, may involve a change in control, even though that acquisition results in less than the statutory 25-percent definition of control, where the voting securities of either a large or small institution are widely held. If the voting securities of an institution are traded on an exchange or over-the-counter, experience has indicated that the voting securities of the institution are more likely to be widely held and that an acquisition resulting in the power to vote 10 percent or more of any class of the institution's voting securities could result in a change in control. Therefore, the nature and extent of the actual trading market activity in an insured institution's voting securities provides a better criterion than the one of asset size and number of shareholders for determining when a 10-percent acquisition should raise a presumption of a change in control.

The adopted amendments limit the 10-percent presumption to those insured institutions which have voting securities that are registered under the 1934 Act and that are actively traded. The term "actively traded" is defined in the amendments as securities that are traded either on a securities exchange or over-the-counter and quoted on NASDAQ. The term "NASDAQ" is defined as the electronic inter-dealer quotation system owned and operated by NASDAQ, Inc., a subsidiary of the National Association of Security Dealers, Inc.

The Board had also proposed to delete the second criterion of the presumption, *i.e.*, where the person proposing to acquire 10 percent or more of an insured institution's voting securities would become the largest holder, or equal to the largest holder, of any class of voting stock. While the size of a subject institution will no longer be a criterion for requiring a Notice, neither will the size of a person's holding, where that acquisition results in the power to vote less than 25 percent of a class of voting securities. The statutory 25-percent definition of control contained in the Control Act provides an adequate basis for determining when a Notice should be filed. Therefore, absent a raised presumption with respect to securities that are registered and actively traded, the adopted amendments provide that transactions resulting in a person's control of less than 25 percent of a class of voting securities of an insured institution would not result in control for purposes of the Control Act.

Rebuttal of Presumption

The Board's regulations provided in § 563.18–2(c)(3) that any acquiring person may request the opportunity to rebut the presumption of control by presenting his views in writing or orally before the FSLIC's designated representatives either at an "informal conference discussion" or an "informal presentation of evidence". However, experience has indicated that a written submission is the most equitable and efficient procedure for considering a rebuttal and for making a record of the issues raised. Therefore, as proposed, the adopted amendments provide that any rebuttal by an acquiring person must be submitted in writing and that an additional oral presentation will be considered when appropriate. References to an "informal conference discussion" and to an "informal presentation of evidence" are deleted. While it is the Board's current practice to issue a written decision, the regulation only required that notice of a decision be released. The adopted amendment provides that the acquiring person be notified in writing regarding the FSLIC's determination of whether the presumption has been rebutted.

Transactions Exempt From Notice

The Board had proposed to clarify the present exemption for pro rata stock dividends resulting in the power to vote 25 percent of a class of voting securities. To avoid any ambiguity for a resulting 10-percent holder of an actively traded security, all pro rata stock dividends are exempted under the adopted amendments. Also, an additional exemption is adopted for customary one-time proxy solicitations. Both of these revisions are made in § 563.18–2 (d)(1).

Notification to Insured Institutions

The Board's regulations had required the FSLIC to notify the subject insured institution of the filing of a rebuttal of the presumption of control or the filing of a materially complete Notice, and provided that the institution may submit written comments to the Board. In adopting those regulations, the Board had accepted a rationale that notification of the insured institution was necessary since (1) the institution is charged with the responsibility of informing its stockholders and the marketplace of important events which may affect its operations, and (2) the institution could provide information about an acquiring person not available from other sources. The adopted amendments eliminate notification of a subject institution of the filing of either a Notice or a rebuttal to the presumption of control.

Commenters generally favored the proposed deregulation and streamlining of the Notice procedure as appropriate and reasonable. However, most were opposed to eliminating notification of a subject institution of the filing of either a Notice or a rebuttal to the presumption of control. Since the Control Act provides that the FSLIC may disapprove any proposed acquisition on grounds relating to certain characteristics of the acquiring person or certain anticompetitive effects of the proposed acquisition, these commenters argued that prior Notice provides an institution with an opportunity to furnish the Board with information regarding the acquiring person which may not be available from any other source and to take action which could effectively bar an acquisition which may not be in the best interests of an institution. While it was generally conceded that disclosure of a Notice may affect the public trading price for a institution's stock prior to an acquisition, some commenters suggested that rumors could effect the trading market to a greater extent than full disclosure and that the cost of an acquisition should not be a concern of regulation.

The Board's experience has indicated that notification of insured institutions is not necessary and that in certain situations it may have an adverse effect on the stockholders. While an insured institution has a responsibility to inform its stockholders and the marketplace of a transaction which may have a material effect on its financial condition or operations, that obligation generally is triggered by the occurrence of the transaction and not by the intention to enter into it. Therefore, the mere filing of a Notice by an acquiring person would generally not create any obligation on behalf of the subject insured institution. The Board notes, however, that when a Notice relates to a proposed tender offer, the filing of the Notice may subject the acquiring person to certain additional filing requirements under the 1934 Act if the Notice were made public.

Although notification allows an insured institution to provide additional information to the Board in connection with its review of a rebuttal or a Notice, such notification of a subject institution is not provided for by the Control Act. While the statute provides that certain information must be furnished by an acquiring person to the Board, there is no requirement that this information should be forwarded to the subject institution. The legislative history contains no indication that such a notification was contemplated. The bank regulatory agencies do not provide in regulations adopted under the Change in Bank Control Act of 1978 for any type of notification of a subject bank, upon the filing of a notice under that Act.

The receipt of a Notice by the subject insured institution could cause management to initiate action which could effectively bar or significantly increase the expense of an acquisition which may be in the interest of the institution's shareholders. Moreover, the release of information regarding the proposed acquisition of an insured institution's securities could materially affect the public trading price of the securities prior to Board review of the proposed transaction. The legislative history contains no indication of an intent to interfere with the forces of the marketplace.

The provisions in the Control Act and in the Board's regulations, as amended, provide specific procedures for a disapproval and for the assessment of a civil penalty of up to $10,000 per day for a willful violation. Such provisions appear to be adequate to insure compliance with the Control Act. While information received from a subject institution could be of assistance to the Board, it has been the Board's experience that such notification is not necessary and does not justify an intrusion and alteration of the forces of the marketplace. Therefore, the adopted amendments delete all provisions relating to notification by the FSLIC of a subject insured institution and to an institution's opportunity to comment on a proposed acquisition. Because of these revisions, the Board has also deleted the § 563.18–2(*l*) supervisory case exception to any such right to notification and comment.

Disclosure

The adopted amendments delete the previous provision in section 563.18–2(e)(4) that non-confidential information in a Notice shall be available for public viewing upon filing. The Control Act does not provide that a Notice may be made public upon filing and the legislative history contains no indication that public disclosure was contemplated. Also, the regulations of the bank regulatory agencies do not provide that a copy of a notice under the Change in Bank Control Act of 1978 should be disclosed upon filing. The purpose of the Control Act, according to the legislative history, was to provide information to the Board and to allow the Board to regulate certain acquisitions, by authorizing the Board to disapprove a proposed acquisition on any of the grounds specified in the statute. Public disclosure of a Notice may prematurely and materially affect the public trading market in the stock of the subject insured institution, and inhibit proposed acquisitions, neither of which consequences were intended by the Control Act. Since public disclosure of a Notice upon filing is not provided for by statute or necessary for effective regulation and may result in an alteration of the forces of the marketplace, a Notice will be treated as confidential information until such time as definitive action has been taken with respect to the Notice. The Board, therefore, is adopting amendments which provide that no portion of a Notice shall be made public except in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), and the Board's regulations adopted thereunder (12 CFR Parts 505 and 505a).

The revised regulations specifically provide in § 563.18–2(f) that a Notice is for the information of the FSLIC and any appropriate State supervisory agency and is not available to the public except under certain conditions. Public disclosure may be made of any portion of a Notice, other than a portion which is exempt from disclosure under 12 CFR 505.5, in the following circumstances: (1) The consent of the acquiring person; (2) the consummation or disapproval of the proposed acquisition; or (3) the Notice otherwise becomes public. Generally, any of these conditions operate to remove the basis for an exemption from public disclosure.

When a Notice is disclosed to the public, access will be limited to those portions of the Notice which contain information directly related to the proposed acquisition (Form A). Those portions of the Notice which contain personal biographical and financial information (Form B) will not be disclosed, unless disclosure is otherwise required.

Failure to Disapprove

The adopted amendments revise § 563.18–2(h) to clarify that where there is a failure to disapprove a proposed acquisition, such acquisition may take place, provided that it is consummated within one year and that there is no material change in circumstances prior to the acquisition. This revision conforms with § 563.18–2(g)(2) which currently indicates the effects of a written notice by the FSLIC of its intention not to disapprove a proposed acquisition.

One commenter recommended that a specific approval or disapproval be required with respect to each Notice. However, this is not required by statute. While it is the Board's practice to notify an acquiring person in writing of its disapproval or its intention not to disapprove, paragraph (4) of the Control Act only provides for an approval upon an agency hearing following a notice of disapproval. The regulations relating to the effect of a failure to disapprove are based on subparagraph (1) of the Control Act which provides that no person shall acquire control unless the FSLIC has been given at least 60 days' prior written notice and within that time period, or any extension, the FSLIC has not issued a notice disapproving the proposed acquisition.

It was suggested that § 563.18–2(g)(1) should be revised to delete the reference to paragraph (7) of the Control Act, which states the grounds for a disapproval, and that the statutory grounds for disapproval should be restated in the text of the regulations. The Board believes, however, that the incorporation by reference of the provisions in paragraph (7) of the Control Act contained in § 563.18–2(g)(1) is clear and not unduly inconvenient, and that it is therefore unnecessary to restate them in the regulations.

Filing Procedures

In addition to the filings which must be made at the Board, the regulations required in § 563.18–2(j) that two copies of a Notice be filed with the Principal Supervisory Agent with respect to a savings and loan institution and that two copies be filed with the Supervisory Agent with respect to a savings and loan institution holding company. Since the cross-reference to the definition of Supervisory Agent would be incorrect with relation to the amended regulatory language, and since there does not appear to be a need to distinguish between the Principal Supervisory Agent and Supervisory Agent for the purpose of Control Act filings, the amended regulation provides that a Notice shall be filed with the Board and the Principal Supervisory Agent.

Delegation of Authority

The adopted amendments provide in § 563.18–2(*l*)(1) that the Director of the Office of Examinations and Supervision with the concurrence of the General Counsel, or their designees, shall have delegated authority to take certain actions under the Control Act and the regulations regarding a Notice filed with respect to an insured institution which has a class of voting securities registered under the 1934 Act. The provisions describing those determinations that are delegated have been revised to conform to the other changes which are being adopted.

In order to provide more efficient procedures for the review and processing of a Notice, the adopted amendments provide in § 563.18–2(*l*)(2) that the appropriate Principal Supervisory Agent shall have delegated authority regarding a Notice filed with respect to an insured institution which does not have a class of securities registered under the 1934 Act. However, the concurrence of the Director of the Office of Examinations and Supervision and the General Counsel, or their designees, is required for (1) a grant, but not a denial, of a waiver, and (2) a recommendation to the Board either to disapprove a proposed acquisition, to issue a notice of intent not to disapprove a proposed acquisition whenever a State supervisory agency recommends disapproval in writing for any grounds specified in the Control Act, or to assess a civil penalty.

Period for Review, Filing of Additional Information, and Waiver

The Board is clarifying the applicable time period for review by providing in § 563.18–2(e) that the 60-day review period commences again in its entirety upon receipt by the FSLIC of additional information filed with respect to a Notice. In addition, the Board is clarifying its authority to require the filing of additional information if it determines that the information is necessary in connection with its review of the Notice. As amended, § 563.18–2(e)(2) clarifies that any requested waiver of any requirements of this section or of any information required in a Notice should be in writing. With respect to a supervisory case, the adopted amendments also clarify that the FSLIC may waive on its own volition any requirements of the regulations under the Control Act or any required information in a supervisory case.

Procedures To Disapprove a Notice and To Assess a Penalty

As amended, § 563.18–2(g)(1) includes the required statutory time periods provided by paragraphs (3) and (4) of the Control Act with respect to a notice of disapproval and a subsequent request by an acquiring person for a hearing, along with a cross-reference to the Board's rules of practice and procedure regarding the conduct of such a hearing (12 CFR Part 509). A corresponding amendment has been made to § 509.1 to add a new paragraph (h), which specifically refers to hearings under paragraph (q)(4) of section 407 of the National Housing Act, as amended. The procedures for appealing an administrative hearing by the Board to a United Sates court of appeals are set forth in paragraph (5) of the Control Act.

While the Control Act does require certain specific notices and determinations to be made in connection with an order of assessment, the applicable statutory provision does not require an administrative hearing. Therefore, the procedures to be followed by the Board to assess a civil penalty under paragraph (16) of the Control Act for willful violations by an acquiring person of a provision of the Control Act, or any regulation or order issued by the Board pursuant thereto, are clarified in § 563.18–2(k)(3).

Regulatory Flexibility Act Certification

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Board certifies that the proposed amendments, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Parts 509 and 563

Administrative practices and procedure, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby amends Parts 509 and 563 of Subchapters A and D respectively, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER A—GENERAL

PART 509—RULES OF PRACTICE AND PROCEDURE

Add a new paragraph (h) to § 509.1, to read as follows:

§ 509.1 Scope of regulations.

* * * * *

(h) Hearings under subsection (q)(4) of section 407 of the National Housing Act, as amended (12 U.S.C. 1730(q)(4)), to determine whether the Federal Savings and Loan Insurance Corporation should issue an order to approve or disapprove a person's proposed acquisition of an insured savings and loan stock institution or a savings and loan holding company.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

Revise § 563.18–2 to read as follows:

§ 563.18–2 Changes in control of stock institutions including savings and loan holding companies.

(a) *Scope.* This section applies only to changes of control under subsection 407(q) of the National Housing Act, as amended (12 U.S.C. 1730(q)) ("Control Act").

(b) *Definitions.* As used in this section:

(1) "Person" means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein;

(c) "Control" means the power, directly or indirectly, to direct the management or policies of an insured institution or to vote 25 percent or more of any class of voting securities of an insured institution;

(3) "Stock" means such stock or other equity securities or equity interests in an insured institution which is a stock company, or rights, interests, or powers with respect thereto;

(4) "Insured institution" or "institution" shall include any savings and loan holding company, as that term is defined in section 408 of the National Housing Act, which has control of any insured institution;

(5) "Actively traded" means securities that are traded either on a securities exchange or over-the-counter and quoted on NASDAQ; and

(6) "NASDAQ" means the electronic inter-dealer quotation system owned and operated by NASDAQ, Inc., a subsidiary of the National Association of Securities Dealers, Inc.

(c) *Acquisitions requiring prior written notice.* (1) *General.* Unless a transaction is exempted under paragraph (d) of this section, 60 days' prior written notice to the Corporation is required whenever any person or persons acting in concert, through a purchase, assignment, transfer, pledge, or other disposition of voting stock, will acquire the power, directly or indirectly:

(i) To direct the management or policies of an insured institution; or

(ii) To vote 25 percent or more of any class of voting securities of an insured institution.

(2) *Transactions presumptively requiring notice.* For purposes of this section, a person shall be presumed to acquire power to direct the management and policies of an insured institution whenever the person will acquire power to vote 10 percent or more of any class of voting securities of the institution and the institution has a class of voting securities which is registered under Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) and is actively traded. Transactions resulting in a person's control of less than 25 percent of a class of voting securities of an institution whose stock is not actively traded does not result in control for purposes of the Control Act.

(3) *Rebuttal of presumption.* Upon request, the Corporation will afford any acquiring person an opportunity to rebut the subparagraph (c)(2) presumption in writing and, when appropriate, orally. The Corporation shall have 20 days from the receipt of a materially complete written rebuttal within which to determine whether the presumption has been rebutted. The decision of the Corporation will be provided in writing to the acquiring person.

(4) *Presumption to apply prospectively.* Any person who is deemed to have had the power to direct the management or policies of an insured institution continuously since March 9, 1979, solely on the basis of the presumption contained in subparagraph (c)(2), must either give prior written notice as prescibed by this section or seek a determination by the Corporation that the person has had such power, before acquiring additional voting securities in the institution.

(d) *Transactions exempt from notice.* (1) *Transactions entirely exempt.* Notice is not required for:

(i) Transactions subject to section 408 of the National Housing Act (12 U.S.C. 1730a), whether or not prior Corporation approval is required by that section;

(ii) Transactions subject to aproval under Part 546 of this Chapter or § 563.22 of this Subchapter;

(iii) Acquisition of additional shares of any class of voting securities in an insured institution by any person who;

(*a*) Has held power to vote 25 percent or more of any class of voting securities in such institution continuously since March 9, 1979; or

(*b*) Has maintained control of the institution continuously since acquisition of control in compliance with this section and the Control Act;

(iv) A customary one-time proxy solicitation; or

(v) Receipt of *pro rata* stock dividends.

(2) *Transactions exempt from prior notice.* If a person would obtain control as a result of acquisition of voting securities in an insured institution:

(i) In satisfaction of a debt previously contracted in good faith, or

(ii) Through testate or intestate succession or *bona fide* gift, the acquiring party need not provide advance notice but must advise the Corporation in writing within 130 days of the acquisition and provide such information as the Corporation may request.

(e) *Notice.* (1) *Form and contents.* A notice required under paragraph (2) of the Control Act shall not be deemed sufficient unless it includes all of the information required by the form prescribed by the Corporation, and any additional relevant information as the Corporation may require by specific request in connection with any particular notice.

(2) *Waiver.* The Corporation may waive any requirements of this section or any required information:

(i) Determined to be unnecessary by the Corporation, upon the written request of an acquiring person; or

(ii) In a supervisory case.

(3) *Receipt of notice; effect.* The period for Corporation review of any proposed acquisition will commence upon receipt by the Corporation of a notice substantially complying with the provisions of subparagraph (e)(1). The Corporation will send a letter of acknowledgement to an acquiring person indicating the date of receipt of a notice deemed sufficient or specifying the reasons why a notice is insufficient. After the Corporation notifies the acquiring person that the notice is sufficient, the Corporation may subsequently make a determination that additional information is required for its review of the notice, and it shall notify the acquiring person that the notice is insufficient. In such case the period for Corporation review will be deemed to commence again in its entirety upon the receipt of the additional information.

(f) *Disclosure.* A notice, or any portion thereof, filed pursuant to this section shall be for the information of the Corporation and the appropriate State supervisory agency and shall not be disclosed, except in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), and Parts 505 and 505a of this Chapter. Public disclosure of any portion of a notice, other than a portion exempt from disclosure under § 505.5 of this Chapter, may be made under any of the following conditions:

(1) Consent of the acquiring person;

(2) Consummation or disapproval of the proposed acquisition; or

(3) A notice otherwise becomes public.

(g) *Action by Corporation.* Prior to expiration of the 60-day review period or any extension thereof, the Corporation may notify the acquiring person in writing of:

(1) Its disapproval of the proposed acquisition on any of the grounds listed in paragraph (7) of the Control Act, which notice shall be issued within three days after its decision to disapprove, and its advice that the acquiring party may request within 10 days of the receipt of such notice of disapproval an administrative hearing under paragraph (4) of the Control Act, which shall be conducted in accordance with Part 509 of this Chapter; or

(2) Its intent not to disapprove the proposed acquisition, provided that it is consummated within one year and that there is no material change in circumstances prior to the acquisition.

(h) *Failure to disapprove.* If, upon expiration of the 60-day review period or any extension thereof, the Corporation has failed to disapprove a proposed acquisition, such acquisition may take place, provided that it is consummated within one year and that there is no material change in circumstances prior to the acquisition.

(i) *Extensions of review period.* The 60-day period may be extended by the Corporation for up to 30 days for any reason.

(j) *Filing procedures.* Any notice or other submission required or provided for in the Control Act or this section shall be filed as follows:

(1) The original and two copies shall be filed with the Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552; and

(2) Two copies shall be filed with the Principal Supervisory Agent, as defined in § 561.35 of this Subchapter.

(k) *Sole authority in Corporation.* The Corporation alone may:

(1) Disapprove a proposed aquisition;

(2) Issue a notice of its intent not to disapprove a proposed acquisition whenever the appropriate State savings and loan supervisory agency recommends disapproval in writing on any of the grounds specified in paragraph (7) of the Control Act;

(3) Assess a civil penalty under paragraph (16) of the Control Act for any person who willfully violates any

provision of the Control Act, or any regulation or order issued by the Corporation pursuant thereto, of not more than $10,000 per day for each day during which the violation continues:

(i) By giving written notice of the basis for the violation, the amount of the proposed civil penalty, and an opportunity for the person to submit data, views, and arguments within 20 days; and

(ii) By giving due consideration to the appropriateness of the penalty with respect to each of the factors specified in paragraph (16) of the Control Act and issuing to the person, within 30 days of the expiration of the period provided to make a submission, a written notice of the Corporation's order of assessment which must be paid within 10 days, unless otherwise agreed to, or the Corporation may bring an action to collect the assessed penalty.

(l) *Delegations of authority.* (1) The Director of the Office of Examinations and Supervision with the concurrence of the General Counsel, or their designees, is authorized, with regard to institutions having a class of voting securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*), to:

(i) Decide whether a presumption of control has been rebutted under subparagraph (c)(3);

(ii) Determine the existence of control prior to the effective date of the Control Act under subparagraph (c)(4);

(iii) Require information from an acquiring party exempt from the prior-notice requirements under subparagraph (d)(2);

(iv) Require additional information under subparagraph (e)(1);

(v) Grant or deny a waiver of any required information under subparagraph (e)(2);

(vi) Determine sufficiency of a notice for the purpose of commencing or recommencing the review period under subparagraph (e)(3);

(vii) In the absence of a recommendation by the appropriate State savings and loan supervisory agency for disapproval, issue notices of intent not to disapprove proposed acquisitions under subparagraph (g)(2);

(viii) Extend the review period under paragraph (i); and

(ix) Act on behalf of the Corporation with respect to the exercise of any authority not expressly reserved to the Corporation under paragraph (k).

(2) The Principal Supervisory Agent is authorized, with regard to institutions not having a class of voting securities registered under Section 12 of the Securities Exchange Act of 1934 (12 U.S.C. 78*l*), to make the determinations under subparagraphs (1) (ii) through (ix) of this paragraph. However, the concurrence of the Director of the Office of Examinations and Supervision and the General Counsel, or their designees, is required for:

(i) A grant, but not a denial, of a waiver referred to under subparagraph (1)(v) of this paragraph; and

(ii) A recommendation either to disapprove a proposed acquisition under subparagraph (k)(1), to issue a notice of intent not to disapprove under subparagraph (k)(2) where a State supervisory agency recommends disapproval, or to assess a civil penalty under subparagraph (k)(3).

(Title VII, Financial Institutions Regulatory and Interest Rate Control Act of 1978, Sec. 407, 48 Stat. 1260, as amended, 12 U.S.C. 1730(q); Reorg. Plan No. 3 of 1947, 12 FR 4981, 2 CFR 1943–48 Comp. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-21372 Filed 8-5-82; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Part 556

[No. 82-498]

Amendments to Policy Statement Concerning Branching in Supervisory and Non-Supervisory Acquisitions

Dated: July 28, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is amending its policy statement on branching to clarify the Board's criteria for permitting operation of out-of-state branches by federally-chartered savings and loan associations and by multi-state, multiple savings and loan holding companies.

EFFECTIVE DATE: September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Ilsa K. Bush, Associate General Counsel, Office of General Counsel (202/377–6436), Federal Home Loan Bank Board, 1700 G St., NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 1982, the Board, by Resolution No. 82–308, approved for publication and public comment until June 3, 1982, several amendments to its policy statement on branching (47 FR 19154; May 4, 1982). The branching policy statement (12 CFR 556.5) states the Board's position on intrastate and interstate branching of federally chartered savings and loan associations.

The Board's policy has generally limited authorization of branches by federal associations to the state of the association's home office. A specific exception to this policy was set forth in an amendment to the Board's policy statement on branching issued on March 23, 1981 (46 FR 19221; March 30, 1981), for mergers, consolidations, or purchases of assets ("acquisitions") in a supervisory context under certain circumstances.

After the Board adopted this specific exception, interpretive questions arose as to what subsequent branching authority the resulting associations might have after a supervisory acquisition. On September 3, 1981, the Board amended its policy statement on branching to clarify that the Board would accept applications for branches in states, other than the home office state of an association, that an association had entered through a supervisory acquisition (46 FR 45120; September 10, 1981). Subsequently, further ramifications of interstate branching through supervisory acquisitions were presented to the Board for consideration, and, as a result, the Board published for public comment (47 FR 19154; May 4, 1982) the proposed amendments to its branching policy statement that, as modified and discussed below, are being adopted today. The Board also requested comments on any other matter relating to branching by federal associations in the context of the policy statement on branching.

The Board received 13 comment letters on the proposal. Those submitting comments included insured institutions, law firms representing insured institutions, industry trade associations, one state government division, and the U.S. Department of Justice. Commenters were divided on the general policy of the Board's limiting branching by a federal association to the state of its home office. Some expressed the view that the Board should permit federal associations to branch nationwide, while others believed that the Board should prohibit interstate branching. Most commenters indicated that the relevant factors to be considered included the effect of interstate branching on competition and the efficacy of interstate branching as a solution to the problems of the ailing thrift industry. Two commenters opposed the policy statement based on charges that the Board lacks statutory authority to permit interstate branching. The Department of Justice concluded

that the Board does have the legal authority to permit interstate branching and should do so in non-supervisory cases. In summary, eight of the 13 commenters expressed some degree of support for the interstate branching policy, and five indicated opposition to it.

The Board maintains that interstate branching in supervisory cases is warranted to accommodate the present needs of the thrift industry and the protection of the insurance fund in this critical economic period that has brought about an unprecedented increase in the number of thrifts approaching insolvency.[1] At the same time and for similar reasons, the Board is not prepared to exercise its authority to expand interstate branching authorization beyond supervisory cases. Accordingly, the Board is making the following clarifications of the supervisory exception to its policy of authorizing branches by a federal association only within the state of its home office.

First, the Board is adopting the proposed amendment that makes clear that a reverse merger arrangement is available as an alternative where the Board determines that such a structure will best meet the objectives of the Federal Savings and Loan Insurance Corporation ("FSLIC") and the parties involved in an interstate supervisory acquisition. This approach gives the FSLIC flexibility in structuring such acquisitions and, thereby, may foster cost savings in the assistance provided to the acquiring party. One industry trade association supported this policy. The state government division opposed it due to a concern that state laws would be evaded. No other commenters stated any views on this matter.

Second, the Board is adopting a revision of subparagraph (a)(3)(iii) to the policy statement on branching and redesignating it as subparagraph (a)(3)(iv). It is now provided that once an association has entered a state, other than the state of its home office, by acquiring an association through a supervisory merger, the association may continue to branch in the newly entered state. The amendment being adopted makes clear that the right to continue branching on the same basis as an in-state association applies only in situations not involving an action by the FSLIC to prevent failure. In supervisory situations, the interstate association will be treated like other out-of-state associations. Thus, the Board maintains it perference for not having federal associations branch interstate.

Public comments on this issue were mixed—one association noted that this treatment serves as an inducement to healthy associations to acquire supervisory or problem associations, while three other associations noted possible negative effects on local institutions competing with out-of-state institutions which had received FSLIC assistance in the course of a supervisory acquisition. In adopting a position opposed by some commenters, the Board notes that, in contrast to arranging supervisory acquisitions, liquidation of problem associations accompanied by the payment of insurance on accounts could seriously erode the reserves of the FSLIC and cause a loss of confidence in the thrift industry, thereby damaging the entire industry. Additionally, one writer suggested that the Board expand this provision to allow associations that have "grandfathered" branches in other states to continue branching there. The Board believes that the latter proposal would be inconsistent with its general policy to limit interstate branching rights except in specific cases that involve supervisory acquisitions.

Since proposing these amendments, it has been noted that a further clarification is necessary in the language of the proposed subparagraph (a)(3)(iv). As restated, the provision allows for branching in a state outside of the home office state where, as part of an interstate acquisition approved pursuant to subparagraph (a)(3)(ii) of the branching policy statement, the location of the home office of the resulting institution has been changed from one state to another. This clarification is consistent with the rationale for adopting the proposed amendment to subparagraph (a)(3)(ii)(*a*)(*1*) relating to the use of reverse mergers in fashioning an interstate acquisition involving an action by the FSLIC. It is in the public interest and consistent with applicable law that the FSLIC have the flexibility necessary to structure an acquisition that will most effectively reduce the insurance liability or risk to the FSLIC. A corresponding change is being made in subparagraph (a)(3)(ii)(*a*) by the addition of the words "or operation."

Third, the Board is adopting the substance of the proposed amendment for subparagraph (a)(3)(ii)(*a*)(*3*). This amendment sets forth the Board's position that, all other things being substantially equal, the Board will prefer, over an interstate acquisition by a federal association, not only a totally in-state acquisition, but also an interstate acquisition where the acquirer is a state-chartered institution and the laws governing the institutions involved permit such an acquisition. The amended section also provides that an interstate merger resulting from the consolidation of subsidiaries of a multi-state, multiple savings and loan holding company (permitted by other amendments being adopted at this time) is preferred to an interstate acquisition by a federal association. Certain minor changes from the language of the proposed amendment have been made in order to simplify the language used. One commenter argued that the Board should make every attempt to preserve state-chartered institutions as resulting institutions in any interstate acquisition in order to continue the dual system of the thrift industry. The Board finds the current policy sufficiently balanced to preserve the existence of both state and federal associations.

Fourth, the Board is adopting unchanged the proposed amendment relating to consolidation of savings and loan subsidiaries of multi-state, multiple savings and loan holding companies outside the scope of a supervisory interstate transaction, and will permit the resulting entities to continue to apply for branches in the states where their subsidiaries could branch prior to their consolidation. As indicated in the material issued at the time this amendment was proposed, the Board has concluded that such consolidations are no more than corporate reorganizations. Such consolidations allow for greater efficiencies and economies of scale and broaden the permissible activities of such institutions. Accordingly, the Board finds no reason to prohibit such consolidations.

Finally, public comment letters and other materials available to the Board note that the cost of supervisory acquisitions, as well as the contingent risk to the insurance fund, is of major concern to associations interested in supervisory acquisitions and to the FSLIC. Therefore, the Board is amending subparagraphs (a)(3)(ii) (*a*)(*2*) and (*a*)(*3*) to make explicit that when assessing supervisory acquisition alternatives, the Board considers the cost to the FSLIC of each choice presented.

List of Subjects in 12 CFR Part 556

Savings and loan associations.

[1] *See, e.g.*, A. Carron, *The Plight of the Thrift Institutions*, 51–62 (1982) (independent research demonstrating the importance of flexible, cost-saving merger alternatives under the current economy).

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 13, 1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objective and legal basis underlying the proposed rule.* These elements have been incorporated above in the supplementary information regarding the proposed rule.

2. *Small entities to which the proposed rule will apply.* The rule would apply only to insured institutions.

3. *Impact of the proposed rule on small institutions.* The rule would have only a minimal effect on small institutions because small institutions are less likely to participate in interstate acquisitions.

4. *Overlapping or conflicting Federal rules.* There are no known Federal rules that may duplicate, overlap or conflict with the rule.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 556 of Subchapter C, Chapter V of title 12, Code of Federal Regulations, as set forth below:

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 556—STATEMENTS OF POLICY

Amend paragraph (a)(3) of § 556.5 by revising paragraph (a)(3)(ii), revising paragraph (a)(3)(iii) and redesignating it as paragraph (a)(3)(iv), and adding new paragraph (a)(3)(iii); to read as follows:

§ 556.5 Establishment of branch offices.

(a) * * *

(3) * * *

(ii) (*a*) Notwithstanding paragraph (a)(3)(i) of this section, the Board may approve the establishment or operation of a branch office in a state other than the state in which the home office is located, provided that:

(*1*) The establishment of the branch office will be achieved as part of a transaction in which the assets of one institution are acquired by another institution, by merger or otherwise, pursuant to an action by the Federal Savings and Loan Insurance Corporation ("Corporation") to prevent the failure of one of the institutions,

(*2*) The Board determines that the Corporation's insurance liability or risk, including cost or potential cost to the Corporation, will be reduced as a result of maintaining the branch office, and

(*3*) If any otherwise equally desirable acquisition alternative has been submitted that could be approved in accordance with paragraph (a)(3)(i) or (a)(3)(iii) of this section or that would involve acquisition by a state-chartered institution and would be in accordance with the laws governing the chartering and operation of all parties to the acquisition, the Board determines that the Corporation's insurance liability or risk, including cost or potential cost to the Corporation, resulting from the proposed interstate acquisition by a Federal association under this paragraph (a)(3)(i) will be substantially less than the liability or risk that would result from such other acquisition alternative.

(*b*) In reviewing acquisition alternatives submitted for consideration in accordance with this paragraph (a)(3)(ii), the Board will give preference to a particular alternative on the basis that a home office or an operating branch office of an institution that will be a party to the proposed acquisition is located in the same Standard Metropolitan Statistical Area or locality as a home office or an operating branch office of the other institution or one or more of the other institutions that will be parties to the acquisition.

(iii) Notwithstanding paragraph (a)(3)(i) of this section, the Board may approve the establishment of a branch office in a state or states other than the state in which the home office is located, provided that the establishment of the branch office will be achieved by the consolidation of some or all of the savings and loan subsidiaries of a multistate multiple savings and loan holding company. The Board may approve the establishment of a branch office by the resulting institution in any state or states in which the subsidiaries had existing branch office operations prior to their consolidation.

(iv) Notwithstanding paragraph (a)(3)(i) of this section, in a transaction not involving an action by the Corporation to prevent the failure of an institution, the Board may approve the establishment of a branch office in any state in which the applicant has established or has been permitted to operate a branch office pursuant to the conditions set forth in paragraph (a)(3)(ii) of this section.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464, 1729; Reorg. Plan No. 3 of 1947, 172 FR 4891, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–21371 Filed 8–5–82; 8:45 am]

BILLING CODE 6720–01–M

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D–0025]

7 to 31 Day Time Deposits of $20,000 or More

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has established a new category of time deposit effective September 1, 1982, designed to enable depository institutions to compete more effectively with retail short-term market instruments. The new deposit category has the following principal characteristics: (1) A minimum denomination of $20,000; (2) a fixed maturity or required notice period of seven to 31 days at the discretion of the institution; and (3) a ceiling rate of interest based on the most recent rate established and announced for U.S. Treasury bills with maturities of 91 days (auction average on a discount basis) with institutions having the option of offering the accounts in fixed or variable rate form. The Committee established a temporary interest rate ceiling differential of 25 basis points in favor of thrift institutions; thrifts will be permitted to pay the established rate and commercial banks will be permitted to pay the established rate less 25 basis points. The differential and rate ceiling will not apply when the 91-day Treasury bill rate is 9 percent or less (auction average on a discount basis) for the four most recent auctions. The interest rate ceiling on this account will expire on May 1, 1983.

EFFECTIVE DATE: September 1, 1982.

FOR FURTHER INFORMATION CONTACT: Rebecca Laird, Senior Associate General Counsel (202/377–6446), Federal Home Loan Bank Board, Mark Leemon, Attorney (202/447–1880), Office of the Comptroller of the Currency, F. Douglas Birdzell, Counsel, or Joseph A. DiNuzzo, Attorney (202/389–4147), Federal Deposit Insurance Corporation, Paul S. Pilecki, Senior Attorney (202/452–3281) or Harry Jorgenson, Senior Attorney (202/452–3778), Board of Governors of the Federal Reserve System; Elaine Boutilier, Attorney-Advisor (202/566–8737), Department of the Treasury.

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. 96–221; 12 U.S.C. 3501 *et seq.*) ("Act") was enacted to provide for the orderly phaseout and

ultimate elimination of the limitations on the maximum rates of interest and dividends that may be paid on deposit accounts by depository institutions as rapidly as economic conditions warrant. Under the Act, the Committee is authorized to phase out interest rate ceilings by a number of methods including the creation of new account categories not subject to interest rate limitations or with interest rate ceilings set at market rates of interest.

The Committee has considered the issue of short-term time deposits at each of its meetings since June 25, 1981. At that meeting, the Committee determined to request public comment on the desirability of authorizing a new deposit instrument having characteristics similar to money market mutual funds ("MMFs") (46 FR 36712; July 15, 1981). Over 400 comments were received in response to the Committee's request. The Committee considered these comments at its September 22, 1981 meeting and determined to solicit additional public comment (46 FR 50804; October 15, 1981) on several specific proposals for short-term deposit instruments as well as on the general features of a short-term deposit designed to compete with money market instruments that are available in denominations of less than $100,000. On December 16, 1981, the Committee postponed consideration of the matter until its next meeting. At its March 22, 1982 meeting, the Committee considered the comments received and authorized, effective May 1, 1982, a new category of time deposit with a minimum denomination of $7,500, a maturity of 91 days, and a fixed interest rate ceiling based on the most recent rate (auction average on a discount basis) established and announced for U.S Treasury bills with maturities of 91 days. The Committee established a temporary interest rate ceiling differential of 25 basis points in favor of thrift institutions on this account. (Thrift institutions may pay the rate established and announced, and commercial banks may pay 25 basis points less.)

At that time, the Committee recognized that the new deposit category would not be fully competitive with instruments being offered by non-depository institutions. Therefore, the Committee directed its staff to continue efforts to design additional short-term deposit categories to enable depository institutions to compete more effectively with MMFs.

After consideration of the comments received and the analyses and discussions from previous meetings as summarized above, the Committee has determined to authorize, effective September 1, 1982, a new category of short-term time deposit with the following characteristics:

A minimum denomination of $20,000;

No restrictions on depositor eligibility;

A maturity or required notice period of no less than seven days and no more than 31 days as agreed to by the depositor and the institution;

A ceiling rate for all depository institutions based on the 91-day Treasury bill rate (auction average on a discount basis) at the most recent auction ("Bill Rate"). The ceiling rate will become effective the day following the auction. Thrift institutions may offer these deposits at the Bill Rate, while commercial banks are restricted to 25 basis points less than the Bill Rate. (The differential will not apply to IRA and Keogh Plan deposits or to governmental unit deposits, which will be subject to the ceiling rate applicable to thrift institutions.) The rate ceiling will not be in effect if the four most recent Bill Rates are 9 per cent or lower, or on or after May 1, 1983;

May be offered in fixed rate or a variable rate form;

The maximum interest rate payable on any day the balance in the account is less than $20,000 is equal to the ceiling rate for regular savings deposits or accounts;

Compounding of interest is permitted;

May not be issued in negotiable form;

Loans to meet or maintain the required minimum balance of the account are not permitted; loans may not be made by the institution issuing the account using the deposit as collateral; overdraft arrangements that are not secured by, but are paid off by a transfer from, this account at maturity must be on at least the same terms as other overdraft plans offered by the institution;

A minimum early withdrawal penalty of forfeiture of all interest on the amount withdrawn from the most recent maturity date or date on which notice was given; however, in no event shall the penalty be less than the amount of interest that could have been earned during a period equal to one-half the actual maturity or required notice period;

A grace period for penalty-free withdrawal after maturity or expiration of notice period of one business day;

Withdrawal of earned interest is permitted without penalty, *but* earned interest becomes part of principal upon renewal of the account; and

Withdrawal by third-party draft or by other means that facilitate the use of this account as a transaction account are prohibited.

The ceiling rate on the new category is based on the 91-day Treasury bill rate (auction average on a discount basis) ("Bill Rate"). United States Treasury bills maturing in 91 days are auctioned weekly by the Treasury Department, normally on Monday. The 91-day United States Treasury bill rate is announced by the Treasury Department and is published widely in many newspapers thoughout the country. The ceiling rate payable for new deposits, as determined by the most recent auction, will be effective on the day following the auction. Until May 1, 1983, the ceiling rate for thrift institutions will be the announced Bill Rate, and the ceiling rate for commercial banks will be the announced Bill Rate minus 25 basis points. The ceiling rate differential in favor of thrift institutions will not apply to IRA/Keogh Plan accounts and accounts held by governmental units and consequently, commercial banks are permitted to pay the ceiling rate authorized for thrift institutions on these accounts. The ceiling rate and differential in favor of thrift institutions will not be in effect for new or renewed deposits when the Bill Rate is 9 percent or lower for four consecutive auctions. Effective May 1, 1983, the rate ceiling on this account will be terminated.

The ceiling rate of interest on a *fixed* rate, fixed maturity time deposit will be the ceiling rate in effect on the day of deposit for the life of the instrument (seven to 31 days as determined by the depository institution). If such a deposit were renewed at maturity, the new ceiling rate would be determined by the most recent auction of 91-day Treasury bills. The ceiling rate on *variable* rate time deposits and on all notice accounts will initially be the rate in effect on the day of deposit but may change during the term of the instrument when auctions of 91-day Treasury bills occur. For example, typically, a seven-day *variable* rate instrument or seven-day mandatory notice account opened on a Thursday initially would have a ceiling rate based on the Bill Rate as determined by the previous Monday's auction. However, the ceiling rate could change on the following Tuesday to the Bill Rate determined at the auction held on the previous day. In any event, the ceiling rate that applies to a notice account must change at least every 31 days. That is, an institution may establish a seven-day notice account that provides for the rate to change every 31 days. The ceiling rate that applies on the 31st day is determined by the most recent auction of 91-day Treasury bills.[1] For a variable rate, fixed term deposit, the rate may change at any time during the life of the deposit, provided the new rate is not greater than the interest rate ceiling in effect at the time of the change. Upon renewal of a fixed term, variable rate account, the ceiling rate that applies at renewal is the

[1] An institution is not required by regulation to change a rate on the 31st day if the rate the institution is paying on the account is less than the ceiling rate in effect at that time. However, a change in the rate might be required under the terms of the deposit contract.

ceiling rate in effect on the date of renewal.

If a withdrawal causes the principal balance of the account to fall below the $20,000 required minimum daily denomination, interest may not be paid on the account in excess or the ceiling rate on an ordinary passbook savings account for any day that the account balance is below $20,000. With regard to the use of premiums, the Committee determined that institutions will be permitted to give premiums in connection with this deposit instrument; however, an institution may give no more than two premiums per accountholder per year. This rule differs from the Committee's current premium rule in that each *depositor* that holds this type of account will be limited to two premiums per year as opposed to being limited to two premiums *per account* per year.

Additional deposits may be made to the account at any time; however, such funds, including deposits made to bring the account balance up to at least $20,000, must remain on deposit for the full notice or maturity period established by the depository institution. For fixed maturity accounts, any of the following procedures may be adopted by a depository institution with respect to additional deposits:

(1) Each deposit resets the maturity of the account;

(2) Each deposit would be subject to "first-in, first-out" accounting to assure that each additional deposit was maintained for the term of the account;

(3) An institution is permitted to set up an "accounting cycle" equal to the original term of the offered account. New deposits received after the accounting cycle begins would be regarded as maturing at the end of the next complete accounting cycle. In effect, each deposit would be on "hold" until the end of the following cycle; or

(4) Any other procedure that ensures that an additional deposit remains in the account for the entire maturity period.

Examples of acceptable procedures for notice accounts include the following:

(1) Any additional deposit would cancel any notice to withdraw that had already been received, unless that notification called for a longer remaining interval than the minimum notice period;

(2) "First-in, first-out" accounting to ensure that each deposit would be maintained for at least the minimum notice period;

(3) Establishment of an accounting cycle equal to the notice interval. For funds received after the beginning of an accounting cycle, notice of withdrawal could be given only at, or after, the beginning of the next accounting cycle. In effect, the opportunity to give notice on any particular deposit would be deferred until the beginning of the next accounting cycle; or

(4) Any other method that ensures that an additional deposit remains in the account for the entire notice period.

Depository institutions are not permitted to "sweep" funds into this account from another account if such transfers are triggered by the level of the balance in any account.

The Committee has not established a regulatory prohibition on the size or number of withdrawals from the new account, provided that the funds to be withdrawn have satisfied the minimum maturity or notice period. Generally, all withdrawals from a term account prior to maturity and all withdrawals made without satisfying the notice requirement are subject to the imposition of an early withdrawal penalty.[2] The Committee determined that the minimum penalty for early withdrawal for this category of account shall be the forfeiture of all interest actually earned on the amount withdrawn from the most recent of the date of deposit, date of renewal, or date notice was given; however, in no event shall the early withdrawal penalty imposed on this account be less than the amount of interest that could have been earned on the amount withdrawn during a period equal to one half of the actual maturity or required notice period. For an example, if a depository institution provides for a 7-day notice period prior to withdrawal and the depositor makes a premature withdrawal 5 days after notice was given, the minimum early withdrawal penalty would be forfeiture of all interest earned for 5 days on the amount withdrawn. If, however, the depositor makes a premature withdrawal 2 days after notice was given, the minimum early withdrawal penalty would be forfeiture of all interest that could have been earned for 3½ days (one half of 7 day notice period) on the amount withdrawn.

Interest earned may be withdrawn at any time during the term of the account without penalty (12 CFR 1204.101). However, in accordance with the Committee's Rules (12 CFR 1204.101) all earned interest will become principal upon renewal of the account and may not be withdrawn prior to a subsequent maturity without penalty unless the interest rate at renewal is *identical* with the rate paid during the previous term.

[2] Exceptions to the early withdrawal penalty rule related to death, mental incompetency, IRA/Keogh accounts, and loss of deposit insurance due to mergers remain in effect.

With regard to notice accounts, an institution may permit interest earned to be withdrawn at any time without penalty. The Committee also established a one business-day grace period for penalty-free withdrawal after maturity or expiration of the required notice period. If a deposit is not automatically renewable, a depository institution may provide by contract that the account will be converted to another type of deposit or account. For a commercial bank or a mutual savings bank, if no provision is made regarding the disposition of funds at maturity, then the account would be regarded as a demand deposit and earns no interest. For savings and loan associations, if no provision is made regarding the disposition of funds at maturity, then the account would be a savings account.

Institutions must require at least the minimum notice, which may be given by telephone or other telecommunication, mail or messenger, in person (over-the-counter or through an ATM), or by standing order for a fixed amount. For term accounts, withdrawals may be made by any of the same methods. Payment of withdrawals by the institution may be in the form of check or cash paid to the depositor, by cash, draft or electronic transfer by the institution to a third party, or by transfer by the institution to any other account held by the depositor. Withdrawals may not be made from the account by third-party draft drawn directly on the account by the depositor. In addition, a depository institution may not pay or transfer funds from this account to another account if triggered by the level of the balance in any account.

Depository institutions will not be permitted to make loans to depositors upon the security of this category of time deposit or for the purpose of meeting or maintaining the minimum balance requirement for this account category even if the loan is not secured by the deposit. In addition, if funds are transferred from this account to pay an overdraft on a transaction account, the interest rate or fee charged on the overdraft may not be lower than that charged on overdrafts for customers that do not have the $20,000, seven to 31-day account.

The Committee believes that the new instrument will assist depository institutions in competing with other financial instruments that offer market rates of return on short-term investments such as MMFs. The new deposit category should assist depository institutions to attract new funds by competing with other investment alternatives, help stem

deposit outflows, and enhance the ability of institutions to attract and retain valuable customer relationships.

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

List of Subjects in 12 CFR Part 1204

Banks and banking.

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

PART 1204—INTEREST ON DEPOSITS

1. By adding a new § 1204.121 as follows:

§ 1204.121 Seven- to 31-Day Time Deposits of $20,000 or More.

(a) Commercial banks, mutual savings banks, and savings and loan associations may pay interest on any nonnegotiable time deposit of $20,000 or more, with a maturity or required notice period of not less than seven days nor more than 31 days, at a rate not to exceed the ceiling rates set forth below. However, a depository institution shall not pay interest in excess of the ceiling rate for regular savings deposits or accounts on any day the balance in a time deposit issued under this section is less than $20,000. Rounding any rate upward is not permitted.

(b)(1) For fixed interest rate, fixed maturity time deposits issued under this section, the ceiling rate of interest payable

(i) By mutual savings banks and savings and loan associations shall be the rate established and announced (auction average on a discount basis) for U.S. Treasury bills with maturities of 91 days at the auction held immediately prior to the date of deposit or renewal ("Bill Rate"); and

(ii) By commercial banks shall be the Bill Rate minus one-quarter of one percentage point (25 basis points).

(2) For variable interest rate, fixed maturity time deposits and for all notice accounts issued under this section, the ceiling rate of interest payable

(i) By mutual savings banks and savings and loan associations initially shall be the Bill Rate in effect on the date of opening or renewal of the account. The interest rate on the account then may be adjusted to be not in excess of the Bill Rate established and announced at the most recent subsequent auction during the life of the deposit but not less often than every 31 days; and

(ii) By commercial banks on such deposits shall be the ceiling rate established for thrift institutions under paragraph (b)(2)(i) of this section minus one-quarter of one percentage point (25 basis points).

(3) Notwithstanding paragraphs (b)(1) and (b)(2) of this section, a commercial bank may pay interest at a rate not to exceed the ceiling rate payable by mutual savings banks and savings and loan associations on any time deposit issued under this section which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

(i) The United States, any state of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(ii) An individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) 219, 401, 404, 408 and related provisions.

(4) The ceiling rates in paragraphs (b)(1), (b)(2), and (b)(3) of this section shall not apply

(i) If the Bill Rate is 9 per cent or below at the four most recent auctions of U.S. Treasury bills with maturities of 91 days held prior to the date of deposit or renewal. A commercial bank, mutual savings bank, or savings and loan association may pay interest at any rate as agreed to by the depositor on this category of deposit for deposits issued or renewed during such period; or

(ii) Effective May 1, 1983. A commercial bank, mutual savings bank, or savings and loan association may pay interest at any rate as agreed to by the depositor on this category of deposit for deposits issued or renewed on or after May 1, 1983.

(c)(1) A depository institution is not permitted

(i) to lend funds to a depositor upon the security of a time deposit that it has issued under this section, or

(ii) To lend funds to a depositor to meet or maintain the minimum denomination requirement of a time deposit issued under this section.

(2) The rate of interest and any other charges imposed on an overdraft credit arrangement to which withdrawals are paid or to which payments upon maturity or expiration of a required notice period are made from an account issued under this section must be not less than those imposed on such overdrafts for customers that do not possess an account issued under this section at the same institution.

(d) Sections 102 and 103 of the Part shall not apply to time deposits issued under this section. Where all or any part of a time deposit issued under this section is paid before maturity or expiration of the required notice period, a depositor shall forfeit an amount at least equal to the greater of

(i) All interest earned on the amount withdrawn from the most recent of the date of deposit, date of maturity, or date on which notice was given, or

(ii) All interest that could have been earned on the amount withdrawn during a period equal to one-half the maturity period or required notice period.

Where all or any part of a time deposit issued under this section is withdrawn within one business day after the maturity date of the deposit or the date of expiration of notice of withdrawal, no early withdrawal penalty is required to be applied on the amount withdrawn.

(e) Additional deposits to an account issued under this section with a fixed maturity must be maintained in the account for a period at least equal to the original term of the account and may be regarded as having matured individually and having been redeposited at intervals equal to such period. For accounts issued under this section that are subject to a notice period, additional deposits must remain in the account for a period equal to at least the notice period before such funds may be withdrawn without the imposition of an early withdrawal penalty.

(f) Deposits to any account issued under this section may not be made by automatically transferring funds from

another account of the depositor at the same institution where the transfer is initiated by the level of the balance in any account.

(g)(1) Withdrawals from any account issued under this section may not be made (i) by check, draft, or other third party payment instrument or instruction drawn or issued by the depositor, or (ii) by automatically transferring funds to another account of the depositor where the transfer is initiated by the level of balance in any account held by the depositor.

(2) Payments at maturity or withdrawals may be paid by (i) check or cash to the depositor, (ii) cash, draft, or electronic transfer issued by the institution to a third party, or (iii) transfer to any other account held by the depositor.

(3) Notice of withdrawal of an account issued under this section may be delivered by the depositor to the institution by telephone or other telecommunication, mail, messenger, standing order, or by appearance in person at the offices or premises of the institution.

2. By revising the first sentence of paragraph (a) of § 1204.109 to read as follows:

§ 1204.109 Premiums Not Considered Payment of Interest.

(a) Premiums, whether in the form of merchandise, credit, or cash, given by a depository institution to a depositor will be regarded as an advertising or promotional expense rather than a payment of interest if: (1) The premium is given to a depositor only at the time of the opening of a new account or an addition to, or renewal of, an existing account; (2) except as provided in paragraph (c) of this section, no more than two premiums per account are given within a 12-month period; and (3) the value of the premium or, in the case of articles of merchandise, the total cost (including shipping, warehousing, packaging, and handling costs) does not exceed $10 for deposits of less than $5,000 or $20 for deposits of $5,000 or more.

* * * * *

3. Section 1204.109 is amended by adding a new paragraph (c) as follows:

* * * * *

(c) For accounts issued under section 121 of this Part, no more than two premiums per depositor are permitted within a 12-month period.

By order of the Committee, August 3, 1982.

Gordon Eastburn,

Policy Director.

[FR Doc. 82-21349 Filed 8-5-82; 9:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 146

[Docket No. 78N-0242]

Canned Fruit Juices; Standards of Identity for Cranberry Juice Cocktail, Artificially Sweetened Cranberry Juice Cocktail, Lemonade, and Colored Lemonade; Confirmation of Effective Date of Revocation of Stayed Regulations

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date of revocation of stayed regulations.

SUMMARY: The Food and Drug Administration (FDA) confirms the effective date of the revocation of the stayed standards of identity for cranberry juice cocktail, artificially sweetened cranberry juice cocktail, lemonade, and colored lemonade. FDA has determined that requests for a hearing in connection with the revocation of those stayed standards of identity are not justified; therefore, no public hearing will be held.

EFFECTIVE DATE: The revocation of the stayed standards of identity became effective July 11, 1980.

FOR FURTHER INFORMATION CONTACT: Taylor Quinn, Bureau of Foods (HFF-300), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1243.

SUPPLEMENTARY INFORMATION: FDA published a final rule establishing standards of identity for cranberry juice cocktail (21 CFR 146.110) and artificially sweetened cranberry juice cocktail (21 CFR 146.111) in the Federal Register of April 11, 1968 (33 FR 5617). In addition, FDA published a final rule establishing standards of identity for lemonade (21 CFR 146.115), colored lemonade (21 CFR 146.125), and other products in the Federal Register of May 7, 1968 (33 FR 6862). Both final rules were stayed in their entirety in response to objections by notices published in the Federal Registers of July 13, 1968 (33 FR 10088) and July 27, 1968 (33 FR 10713).

FDA published in the Federal Register of June 10, 1980 (45 FR 39247) a final rule establishing a common or usual name for diluted fruit or vegetable juice beverages, other than diluted orange juice beverages (21 CFR 102.33). The final rule was based on a proposal published in the Federal Register of June 14, 1974 (39 FR 20908). The final rule requires, in part, label declaration of the percentage of juice contained in a product, so that consumers can make a value comparison between beverages at the time of purchase. FDA concluded that this common or usual name regulation would adequately reduce the consumer confusion that exists in connection with diluted juice beverages, and that standards of identity that require certain juice contents were unnecessary. Therefore, in the Federal Register of June 10, 1980 (45 FR 39251), FDA revoked, among others, the stayed standards of identity for cranberry juice cocktail and lemonade described above.

The order revoking the stayed regulations provided that any person who would be adversely affected could, on or before July 10, 1980, file written objections to the revocation and, if desired, request a hearing. FDA received objections and a request for a hearing from two persons. One concerned lemonade and colored lemonade; the other concerned cranberry juice cocktail and artificially sweetened cranberry juice cocktail.

In the Federal Register of December 5, 1980 (45 FR 80499), FDA announced a stay of the effective date of revocation of the stayed standards of identity, pending a review of the objections and a decision of whether a hearing would be held.

FDA has considered carefully the objections and requests for a hearing and has concluded that a hearing has not been justified. First, the Federal Food, Drug, and Cosmetic Act (the act) does not require the agency to hold a hearing to revoke a regulation that has never become effective. Second, neither set of objections raises a material issue of fact that could be the subject of a meaningful hearing.

Standards of identity for food are authorized by section 401 of the act (21 U.S.C. 341). Their adoption or repeal is governed by the procedural requirements of section 701 of the act (21 U.S.C. 371). Section 701(e)(2) of the act provides in part that "any person who will be *adversely affected by such order if placed in effect* may file objections * * * and [request] a public hearing upon such objections." (Emphasis added.)

The standards of identity in question have been stayed since they were promulgated in 1968. Because the standards of identity have never been

placed in effect and will not be placed in effect if revoked, section 701(e) does not entitle any person to a hearing. Moreover, no person has been or will be adversely affected because the standards of identity have never had the binding effect of law.

The agency has reevaluated the December 5, 1980 **Federal Register** notice and has concluded that the opportunity given to submit objections and requests for a hearing was unnecessary. As discussed in the preceding paragraph, the objection and public hearing procedures of section 701(e) of the act do not apply to this stage of this rulemaking proceeding.

Furthermore, FDA is not required to hold a hearing every time a person files objections and requests a hearing. To be entitled to a hearing, at a minimum an objection to the proposed regulation must raise a material factual issue concerning which a meaningful hearing might be held. *Pineapple Growers Ass'n v. FDA*, 673 F. 2d 1083 (9th Cir. 1982).

FDA has considered both sets of objections and has concluded that neither raises any material issues of fact. Rather, both raise only policy arguments concerning whether and how to regulate the products. The determination of which regulatory mechanism to use is within FDA's discretion and is not a proper subject for a hearing under section 701(e) of the act. See 21 CFR 12.24(b)(1).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that the removal of § 146.110 *Cranberry juice cocktail*, § 146.111 *Artificially sweetened cranberry juice cocktail*, § 146.115 *Lemonade*, and § 146.125 *Colored lemonade* became effective July 11, 1980. Accordingly, cranberry juice cocktail, artificially sweetened cranberry juice cocktail, lemonade, and colored lemonade are nonstandardized foods and are subject to the labeling requirements of 21 CFR 102.33 (see 45 FR 39247; June 10, 1980). A proposal that would extend the effective date for compliance with § 102.33 from July 1, 1982 until July 1, 1984 appeared in the **Federal Register** of March 26, 1982 (47 FR 13003).

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))

Dated: July 29, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-21008 Filed 8-5-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 449

[Docket No. 82N-0203]

Antibiotic Drugs; Griseofulvin (Ultramicrosize) Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the certification of two new strengths of griseofulvin (ultramicrosize) tablets. The manufacturer has supplied sufficient data and information to establish the safety and efficacy of this drug.

DATES: Effective August 6, 1982; comments, notice of participation, and request for hearing by September 7, 1982; data, information, and analyses to justify a hearing by October 5, 1982.

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

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 357), as amended, with respect to providing for the certification of two new strengths (165 and 330 milligrams) of griseofulvin (ultramicrosize) tablets. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when the drug is used as directed in the labeling and that the regulations should be amended in Part 449 (21 CFR Part 449) to provide for its certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (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.

List of Subjects in 21 CFR Part 449

Antibiotics, Antifungal.

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), § 449.120d is amended by revising the second sentence in paragraph (a)(1) to read as follows:

§ 449.120d Griseofulvin (ultramicrosize) tablets.

(a) *Requirements for certification*—(1) *Standards of indentity, strength, quality, and purity.* * * * Each tablet contains 125, 165, 250, or 330 milligrams of griseofulvin. * * *

* * * * *

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act (21 U.S.C. 357), FDA permits the manufacturer to market this drug on a "release" status pending this regulation's effective date. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and public procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective August 6, 1982. However, interested persons may, on or before September 7, 1982, submit written comments on this rule to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before September 7, 1982, a written notice of participation and request for hearing, and (2) on or before October 5, 1982, the data, information, and analyses on which the person relies to

justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

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

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

Effective date. This regulation shall be effective August 6, 1982.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: July 28, 1982.

James C. Morrison,

Acting Associate Director for Regulatory Affairs.

[FR Doc. 82–21007 Filed 8–5–82; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 556 and 558

Animal Drugs, Feeds, and Related Products; Lasalocid Sodium

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 supplement to a new animal drug application (NADA) filed by Hoffmann-LaRoche, Inc., providing for use of lasalocid in feeds for beef cattle. A tolerance for residues of lasalocid sodium in cattle liver is also established.

EFFECTIVE DATE: August 6, 1982.

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

SUPPLEMENTARY INFORMATION: Hoffmann-LaRoche, Inc., Nutley, NJ 07110, has submitted a supplement to their approved NADA 96–298 for lasalocid sodium premix. The supplement is for Bovatec (lasalocid) premixes for use in feeds for beef cattle fed in confinement for slaughter. The lasalocid premix was previously approved for use in poultry. The supplement provides for use of lasalocid premixes at levels of 15, 20, 33.1, or 50 percent lasalocid sodium activity for use in making feeds containing lasalocid at 10 to 30 grams per ton for improved feed efficiency, and at 25 to 30 grams per ton for increased rate of weight gain.

The firm submitted animal safety and efficacy data as well as human safety data supporting this use. The application is approved and the regulations are amended to reflect the approval. In addition, a tolerance for residues of lasalocid sodium in cattle liver is established. Also, the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(m)) are waived for the manufacture of complete cattle feeds from feed supplements that contain not more than 1,440 grams of lasalocid sodium per ton.

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

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

List of Subjects

21 CFR Part 556

Animal Drugs, Foods, Residues.

21 CFR Part 558

Animal drugs, Animal feeds.

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

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), Parts 556 and 558 are amended as follows:

1. Part 556 is amended by revising § 556.347, to read as follows:

§ 556.347 Lasalocid sodium.

(a) *Chickens.* A tolerance of 0.05 part per million is established for total residues of lasalocid sodium in the edible tissues of chickens. A tissue residue assay measuring microbiologically active residues in the target tissues, skin and fat, with a sensitivity of 0.01 part per million, serves to monitor the total residue in edible tissues. A marker residue concentration of 0.025 part per million in the target tissues corresponds to a total residue level of 0.05 part per million.

(b) *Cattle.* A tolerance of 4.8 parts per million is established for total residues of lasalocid sodium in liver. A marker residue concentration of 0.7 part per million intact lasalocid corresponds to a total residue level of 4.8 parts per million.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. Part 558 is amended in § 558.311 by adding new paragraph (b)(3), by revising paragraph (c), by revising the introductory text of paragraph (e), by revising item (1) and adding items (6) and (7) in the table in paragraph (e), and by adding new paragraph (f), to read as follows:

§ 558.311 Lasalocid sodium.

* * * * *

(b)(3) Premix levels of 15, 20, 33.1, and 50 percent lasalocid sodium activity granted to 000004 in § 510.600(c) of this chapter for use in feed for cattle as provided in paragraph (e) (6) and (7) of this section.

(c) *Assay limits.* (1) For broilers or fryer chickens:

(i) Premix, 100 to 120 percent of labeled amount.

(ii) Complete feeds, 75 to 125 percent of labeled amount.

(2) For cattle:

(i) Premix, 100 to 120 percent of labeled amount.

(ii) Feed supplements, 80 to 120 percent of labeled amount.

(iii) Finished feeds, 75 to 125 percent of labeled amount.

* * * * *

(e) *Conditions of use.* It is used in animal feed as follows:

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(1) 68 (0.0075 pct) to 113 (0.0125 pct).		For the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*	For broiler or fryer chickens only; feed continuously as the sole ration; withdraw 3 days before slaughter.	000004
* *	* *	* *	* *	
(6) 10 (0.0011 pct) to 30 (0.033 pct).		Cattle; for improved feed efficiency	For cattle fed in confinement for slaughter only; feed continuously in complete feed to provide not less than 100 milligrams nor more than 360 milligrams of lasalocid sodium activity per head per day. Do not allow horses or other equines access to lasalocid as ingestion may be fatal. The safety of lasalocid in unapproved species and breeding cattle has not been established. Feeding undiluted or mixing errors resulting in excess concentrations of lasalocid could be fatal to cattle.	000004
(7) 25 (0.0027 pct) to 30 (0.033 pct).		Cattle; for improved feed efficiency and increased rate of weight gain.	For cattle fed in confinement for slaughter only; feed continuously in complete feed to provide not less than 250 milligrams nor more than 360 milligrams of lasalocid sodium activity per head per day. Do not allow horses or other equines access to lasalocid as ingestion may be fatal. The safety of lasalocid in unapproved species and breeding cattle has not been established. Feeding undiluted or mixing errors resulting in excessive concentrations of lasalocid could be fatal to cattle.	000004

(f) *Special considerations.* Complete cattle feeds manufactured from feed supplements that contain not more than 1,440 grams of lasalocid sodium activity per ton and that comply with the provisions of paragraph (e)(6) or (7) of this section are not required to comply with the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

Effective date: August 6, 1982.

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

Dated: August 3, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-21410 Filed 8-4-82; 1:15 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250 and 251

Reimbursement to Lessees and Permittees

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects two typographical errors contained in the final rulemaking of Friday, June 11, 1982 (47 FR 25330), modifying the practices and procedures for reimbursement of lessees and permittees for costs incurred in submitting geological and geophysical data and information to the Director.

EFFECTIVE DATE: July 12, 1982.

FOR FURTHER INFORMATION CONTACT:

David A. Schuenke, (703) 860-7916, (FTS) 928-7916.

Dated: July 28, 1982.

Donald Paul Hodel,

Under Secretary.

Accordingly, the following corrections are made in 30 CFR Part 250 and 251, appearing in 47 FR 25330, June 11, 1982:

1. On page 25331, the introductory sentence to 30 CFR Part 250 is corrected to read: "For the reasons stated in the preamble, 30 CFR Part 250 is amended as set forth below:"

2. On page 25331, the introductory sentence to 30 CFR Part 251 is corrected to read: "For the reasons stated in the preamble, 30 CFR Part 251 is amended as set forth below:"

[FR Doc. 82-21363 Filed 8-5-82; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Parts 822, 824, 825, 827a, and 837

Public Affairs Policies and Procedures

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force has revised and consolidated its regulations concerning public affairs policies and procedures. Because of this, one part is being revised and four others are being removed due to limited applicability to the general public. This action is a result of departmental review in an effort to keep current those regulations published in the Code of Federal Regulations (CFR).

EFFECTIVE DATE: August 6, 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. James R. Newton, SAF/PAX, Pentagon, Washington, D.C., telephone (202) 697-6703.

SUPPLEMENTARY INFORMATION: As a result of the revision, the following parts are being removed: part 822, part 824, part 825, and part 827a. The revised part 837 is derived from Air Force Regulation (AFR) 190-1, 16 February 1982, and is made up of those portions of that regulation which provide policy and guidelines in releasing certain material and information. It also explains how nongovernment groups and members of

the public may obtain this material and information.

List of Subjects in 32 CFR Part 837

Information, Communications, Motion pictures, News media, Photography, Television.

Accordingly, 32 CFR is amended as follows:

PART 822—INFORMATION AUDIOVISUAL (AV) ACTIVITIES [REMOVED]

1. Remove Part 822.

PART 824—AIR FORCE PARTICIPATION IN PUBLIC EVENTS [REMOVED]

2. Remove Part 824.

PART 825—AIR FORCE NEWSPAPERS, BASE GUIDES, AND DIRECTORIES [REMOVED]

3. Remove Part 825.

PART 827a—RELEASE OF INFORMATION ON ACCIDENTS [REMOVED]

4. Remove Part 827a.

5. Part 837 is revised to read as follows:

PART 837—PUBLIC AFFAIRS POLICIES AND PROCEDURES

Sec.

837.1 Purpose.
837.2 References.
837.3 Terms explained.
837.4 AV support policy.
837.5 Types of support.
837.6 Responsibilities.
837.7 Restrictions on general assistance.
837.8 Restrictions on the support of commercial advertising, publicity, or promotional activity.
837.9 Requests to SAF/PA for AV materials or production assistance.
837.10 Local level production assistance authority.
837.11 Requests to SAF/PA for AV production help.
837.12 SAF/PA, approval considerations.
837.13 Participation in nongovernment public affairs events.
837.14 Reimbursement for support.
837.15 Pay for Air Force people.

Authority: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

§ 837.1 Purpose.

This part states Air Force policy and provides guidelines in releasing material to groups engaged in information activities. It identifies the types of audiovisual material and support provided to nongovernment groups and explains how the material and support may be requested.

§ 837.2 References.

This part implements Department of Defense (DOD) Instructions 5410.15 and 5410.16 and references the following publications: AFR 900–3, Department of the Air Force Seal, Organizational Emblems, Use and Display of Flags, Guidions, Streamers, and Automobile Aircraft Plates.

(a) Part 920, Standards of Conduct (PA)

(b) Defense Acquisition Regulation (DAR)

(c) Part 806, Disclosure of Air Force Records to the Public (PA)

(d) AFR 95–2, Vol I, Life Cycle Management

(e) AFR 190–1, Public Affairs Policies and Procedures

(f) Part 806, Disclosure of Air Force Records to the Public

(g) Part 806b, Air Force Privacy Act Program

§ 837.3 Terms explained.

(a) *Audiovisual Material.* This material includes all audio, visual, or combined audio and visual materials produced by or for both the DOD and Air Force. It includes (but is not necessarily limited to) completed motion picture productions, completed videotape productions, and completed productions using a combination of media. It also includes still photography, motion picture and videotape stock footage, audio recordings (both tape and disc) and kinescope recordings. Finally, it includes records that pertain to the materials listed above. Associated records include legal clearances, rights, contracts, recording scripts, camera logs, and caption information.

(b) *Nongovernment Audiovisual Enterprises.* These enterprises include all agencies outside the Federal Government that acquire, use, or produce audiovisual materials. It includes bona fide news media organizations and their accredited representatives, both print and electronic; commercial and nonprofit motion picture and television producers of entertainment and documentary products; advertising agencies; commercial and industrial firms; DOD or Air Force contractors; and private groups and individuals.

§ 837.4 AV support policy.

(a) *New Media Support.* We support all bona fide news media requests for releasing audiovisual material when release meets our responsibility to inform the public, and when it does not compromise national security. DOD or Air Force release materials are equally available to all interested news media.

(b) *Other Nongovernment Audiovisual Enterprises.* Audiovisual materials are:

(1) Releasable when appropriate public affairs authorities determine that this meets the guidelines established by DOD directives and this part, and when release is in the Air Force's interest.

(2) Released to nongovernment audiovisual enterprises only when no legal or policy restriction prohibits its release.

(3) Cleared by established Air Force policy and security review processes before its release to nongovernment audiovisual enterprises.

§ 837.5 Types of Support.

When approved by the proper authorities, public affairs provides the following audiovisual support on request:

(a) Still and motion picture stock photography, motion picture productions, audiotapes, and videotapes.

(b) Research cooperation and production assistance.

(c) Participation in programs, projects, or events sponsored by nongovernment groups.

§ 837.6 Responsibilities.

(a) Secretary of the Air Force, Public Affairs Office (SAF/PA) is usually the Air Force's agent for approving AV support to nongovernment groups. SAF/PA decides if the requested materials or services meet the guidelines in this part and may be affected by policy in other Air Force directives. This approval is based on Headquarters, United States Air Force (HQ USAF) and major commands (MAJCOMs) approval, unit ability to support, minimum or no interference with operations, and no added costs to the government. See § 837.7 through § 837.14.

(b) SAF/PA does *not* need to approve cooperation with or release of Air Force AV material to nongovernment groups, if the material is of local interest only, or deals with spot news events (see AFR 190–1, 3–29).

(c) The guidelines in paragraphs (c)(1) and (2) of this section apply in the continental United States (CONUS) and overseas:

(1) Local commanders approve AV projects they believe are of local interest only. These materials cannot be used beyond the community or area where they originate.

(2) SAF/PA approves AV projects of regional, national, and international interest.

Note.—Recent developments in electronic broadcasting techniques place new emphasis on assessing the geographic reach of a

particular project. Network feeds, helicopter based "sky cam" operations, and other techniques have greatly increased the reach of the once purely local station. Think about that when advising your commander that you are supporting a strictly "local" project.

§ 837.7 Restrictions on general assistance.

Support to nongovernment enterprises is subject to these restrictions:

(a) Pending SAF/PA final approval of Air Force cooperation, nongovernment groups are authorized to contact Air Force people and organizations through local PA officers. With the understanding that interim help does not commit the Air Force to final cooperation or approval of the project, you can give them:

(1) Information or suggestions.

(2) Access for unclassified technical research.

(3) Help in writing the required letter of request to SAF/PA, with its accompanying list of specific needs.

(b) Air Force AV material cannot be provided exclusively to a particular nongovernment group.

(c) Classified information may not be disclosed nor classified equipment shown.

(d) Production must not be assisted that discredits or misrepresents the Air Force, its uniform, or equipment.

§ 837.8 Restrictions on the support of commercial advertising, publicity, or promotional activity.

(a) Commercial AV projects are not approved or supported if they:

(1) Portray false information.

(2) State or imply Air Force preference of one product over another. Such terms as "government-approved" and "Air Force-certified" are not authorized.

(3) Compare the relative merits of current weapons or weapon systems.

(4) Refer to the economic impact of a proposed continuation or cancellation of a defense contract.

(5) Reproduce the Air Force seal or any of its parts, except as authorized by AFR 900–3.

(b) Active duty Air Force military and civilian people may not use their title or position to:

(1) Endorse commercial products, services, or activities.

(2) Assume responsibility for advertising claims.

(3) Obtain personal gain (see part 920).

(c) The Air Force does not pay for advertisements, except according to the Defense Acquisition Regulation (DAR).

(d) Only SAF/PA may approve releasing material to nongovernment groups, if the contract requires HQ USAF approval. SAF/PA also must approve if the material requires review under part 806, AFR 95–2, Vol I, or chapter 6 of AFR 190–1.

§ 837.9 Request to SAF/PA for AV materials or production assistance.

When SAF/PA approval is needed for nongovernment enterprises to get Air Force audiovisual material, the enterprise should request the material by writing to the Pictorial Broadcasting Branch (SAF/PAMB). Letters should describe in detail what audiovisual material is needed and explain how it will be used. The requester should include a concept scriptboard, or scriptboarded layout of the proposed product. The letter also should state that the material will neither state nor imply DOD or Air Force sponsorship, approval or endorsement of the company (its products or services), if materials are used for commercial advertising, publicity or promotion activity.

§ 837.10 Local level production assistance authority.

(a) The following Air Force production assistance may be approved by the local PAO:

(1) Requests for help in producing of AV material for local use.

(2) News media requests for help when the subject matter is of *local* interest only, deals with spot news events, or is releasable in any case.

(3) Requests for advice or guidance.

(4) Requests for help from Air Force contractors when the help relates to contract requirements. Contract-associated support should be confirmed with the contract administrator. (Requests relating to contractor-sponsored photography outside the scope of the contract must be approved by SAF/PA. This is true even if they cost the government nothing and do not interfere with an official mission.)

(b) When nongovernment groups contact Air Force activities or people for help with production of AV materials, the guidance in § 837.12 applies. Remember local commanders may approve the help if the potential impact is local. SAF/PA may approve the help if it is regional, national, or international.

§ 837.11 Requests to SAF/PA for AV production help.

When SAF/PA approval is needed for nongovernment groups to get Air Force help, the groups should request the help by writing to SAF/PAMB, Wash DC 20330. Letters should include:

(a) A synopsis, treatment, or script of the proposed project.

(b) Anticipated specific support requirements (for example, military manpower, equipment, AV material, flying hours, etc.).

(c) A projected production schedule, including filming dates and where work is located at each proposed facility.

(d) A statement that the requested equipment and personnel services cannot be obtained from commercial or private enterprises.

(e) A statement that the required "hold harmless" agreement and the certificate of insurance will be provided to the Air Force representative before on-location photography on an Air Force facility.

(f) A statement that the requester owns, or has the authority to submit, the material to SAF/PA for production assistance.

§ 837.12 SAF/PA approval considerations.

SAF/PA takes the following into consideration before approving nongovernment group requests for AV production help:

(a) Potential benefit to the Air Force, DOD, or the nation offered by the proposed production.

(b) Historical accuracy and authenticity of portrayal of Air Force operations, incidents, persons, and places.

(c) How requests comply with accepted standards of dignity and propriety.

(d) The degree of interference with Air Force operations.

Note.—Operational readiness must not be impaired.

(e) How requests conform to Air Force safety standards. This may require the production company to use military people as special equipment operators, or in specialized duty stations.

(f) Diversion of equipment, personnel, and material resources from normal Air Force locations and operations. This is authorized only when the filming or recording cannot be done without it. Diversions must be held to a minimum and must not interfere with military operations. The production company must reimburse the government for any expenses that result from the diversion.

§ 837.13 Participation in nongovernment public affairs events.

(a) Where to send requests. Send all requests to SAF/PA for Air Force to take part in programs, projects, or events of other than local interest sponsored by a nongovernment group. This includes such things as contractor-sponsored events, public introduction of new items, rollouts, first flights, first Air Force acceptance, dedication of new facilities, anniversaries, and open houses.

(b) Specific Restrictions:

(1) Participation and cooperation MUST NOT directly or indirectly endorse, or selectively benefit, or favor, or appear to endorse, or selectively benefit, or favor any private individual, group, corporation (whether for profit or nonprofit), sect, quasireligious or ideological movement, fraternal organization, political organization, or commercial venture, or be associated with the solicitation of votes in a political election.

(2) Participation may not help commercial advertising, publicity or promotional activities, nor events that help or favor a commercial venture.

§ 837.14 Reimbursement for support.

(a) News media do not pay for Air Force stock AV material or location photography on Air Force facilities, when used for news projects.

(b) Other AV producers must pay standard research fees and all other costs of Air Force stock AV materials. This includes materials wanted for documentaries that are not regarded as news materials under a above.

(c) Assistance to nongovernment enterprises whose productions have potential positive benefit to the Air Force should be charged at the DOD-user rate. Other productions should pay the nongovernment user or government (non-DOD) user rate. Office of the Assistant Secretary of Defense, Public Affairs Office (OASD/PA) and SAF/PA determine the rate to be charged.

(d) The Air Force organization that owns the resources expended or equipment involved should present its bill or bills to the production company through the SAF/PA project officer.

§ 837.15 Pay for Air Force people.

Air Force people who appear in non-news AV productions must do so voluntarily whether on duty or off duty.

(a) If they are performing normal duties, during the time of the AV production, the people are said to be on-duty and cannot be paid by the producer, but they are not required to participate.

(b) If they are not performing normal duties, while taking part in a production they are off-duty. They then may negotiate with the producer for pay for their services.

(c) The producer bears the travel and per diem costs for Air Force people involved in nongovernment AV productions, whether on duty or off. The producer may handle this directly with the people, or the parent unit may bill the producer at prevailing military or government civilian rates. The bill must be sent to the producer through the Air Force unit project officer, with a copy to SAF/PAMB.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-21307 Filed 8-5-82; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 50

National Capital Parks Regulations; Camping; Correction

AGENCY: National Park Service, Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects the authority citation for Part 50 of 36 Code of Federal Regulations contained in final regulations specifying the types of activities considered by the National Park Service to be camping which must be confined to designated camping areas. The final regulations were published on June 4, 1982 (47 FR 24299) and the authority citation was found at page 24302 of that publication.

FOR FURTHER INFORMATION CONTACT: Sandra Alley, Associate Regional Director, Public Affairs, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, D.C. 20242, telephone: 202-426-6700; Richard G. Robbins, Assistant Solicitor, National Capital Parks, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240, telephone: 202-343-4338.

Date approved: July 26, 1982.

Craig Potter,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

PART 50—NATIONAL CAPITAL PARKS REGULATIONS

Accordingly, the National Park Service is correcting the authority citation for Part 50 to read as follows:

Authority: Sec. 6 of the Act of July 1, 1898 (30 Stat. 571); Sections 1-3 of the Act of August 25, 1916 (39 Stat. 535, as amended); Section 16 of the Act of March 3, 1925 (43 Stat. 1126, as amended); Act of March 17, 1948 (62 Stat. 81); Act of August 8, 1953 (67 Stat. 495); 16 U.S.C. 1-3; D.C. Code 8-137 (1981); D.C. Code 40-721 (1981).

[FR Doc. 82-21350 Filed 8-5-82; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 1982-8(a)]

Standards of Performance for New Stationary Sources, Asphalt Processing, and Asphalt Roofing Manufacture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Proposed standards of performance for asphalt processing and asphalt roofing manufacture were published in the **Federal Register** on November 18, 1980 (45 FR 76404) and amended on May 26, 1981 (46 FR 28180). These standards implement Section III of the Clean Air Act and are based on the Administrator's determination that asphalt processing and asphalt roofing manufacture cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect is to require all new, modified, and reconstructed asphalt processing and asphalt roofing manufacturing facilities to use the best demonstrated system of continuous emission reduction considering costs, nonair quality health and environmental impacts, and energy requirements.

EFFECTIVE DATE: August 6, 1982.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES:

Background Information Document. The background information document (BID) for the promulgated standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Asphalt Roofing Manufacturing Industry, Background Information for Promulgated Standards of Performance," EPA-450/3-80-021b.

Docket. Docket No. A-79-39, containing information considered by EPA in the development of the promulgated standards, is available for public inspection between 8:00 a.m. and

4:00 p.m., Monday through Friday, at EPA's Central Docket Section (A–130), West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
Ms. Susan R. Wyatt, Emission Standards and Engineering Division (MD–13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5578.

SUPPLEMENTARY INFORMATION:

The Standards

Standards of performance for new stationary sources established under Section III of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impacts, and energy requirements) the Administrator determines has been adequately demonstrated. [Section 111(a)(1)]

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

The standards limit particulate emissions from the following newly constructed, modified, or reconstructed facilities: asphalt storage tanks, blowing stills, saturators, and mineral handling and storage areas in asphalt roofing plants; and asphalt storage tanks and blowing stills in asphalt processing plants and petroleum refineries.

Blowing still particulate emissions when firing natural gas or No. 2 fuel oil in the afterburner are limited to 0.60 kg/Mg (1.20 lb/ton) of asphalt charged during conventional blowing and 0.67 kg/Mg (1.34 lb/ton) of asphalt charged during catalytic blowing. When No. 6 fuel oil is used to fire the afterburner, the particulate emissions from blowing stills are limited to 0.64 kg/Mg (1.28 lb/ton) of asphalt charged for conventional blowing and 0.71 kg/Mg (1.42 lb/ton) of asphalt charged for catalytic blowing. Saturator particulate emissions are limited to 0.04 kg/Mg (0.08 lb/ton) of shingle and mineral-surfaced roll roofing produced or to 0.4 kg/Mg (0.8 lb/ton) of saturated felt and smooth-surfaced roll roofing produced, depending on the product.

An opacity standard is being promulgated for each affected facility as follows: 20 percent for saturators; zero percent for asphalt storage tanks except for one consecutive 15-minute period in any 24-hour period when the transfer lines are being blown for clearing; 1 percent for mineral handling and storage areas; and 0 percent for blowing stills, unless an opacity greater than 0 percent is established by the Administrator for an individual blowing still that is using fuel oil to fire the afterburner used as the control device. A fugitive emission standard of no visible emissions 80 percent of the time is being promulgated for capture systems on newly constructed and reconstructed saturators. Saturators that become subject to the standards through modification are exempt from the visible emissions standard.

The performance test methods for determining compliance with the promulgated standards would be Reference Method 5A (proposed as Method 26) for particulate emissions and Reference Method 22 for fugitive emissions. Reference Method 9 is to be used to determine opacity.

Continuous monitoring of the operating temperature of the control devices used for blowing stills and saturators would be required to ensure proper operation and maintenance.

Summary of Environmental, Energy, and Economic Impacts

It is projected that growth in the industry during the 5 years after proposal (November 18, 1980) of the standards will be: 5 new medium-size plants; 5 small-size plants upgraded to medium-size plants by the addition of a roofing line; 5 plants with reconstructed saturators to replace saturators destroyed by fire; and 20 plants with saturators modified to increase production by 20 percent.

The fifth-year nationwide reduction in particulate emissions beyond the State implementation plan (SIP) level would be 2,040 Mg/yr (2,250 tons/yr). The annual percentage reduction in particulate emissions from the SIP level would be 65 percent.

The amount of wastewater to be treated in the fifth year would be increased by about 235 m^3/yr (62,000 gal/yr). The quality of the wastewater would not be changed.

A medium-size model plant (2,060,000 roofing squares/yr) subject to SIP control would consume 6,400 m^3/yr (40,250 bbl/yr) of oil. A medium-size model plant subject to new source performance standards (NSPS) control would consume 6,600 m^3/yr (41,500 bbl/yr) of oil. This is an increase in oil consumption of 200 m^3/yr (1,250 bbl/yr). The fifth-year nationwide increase in energy usage over baseline would be 1,530 m^3/yr (9,600 bbl/yr) of oil. The percentage increase from baseline would be 3.2 percent.

The initial capital cost for control devices for a medium-size model plant to comply with the NSPS would be $100,000 above the cost to comply with SIP's, and the annualized costs would be $60,000. The nationwide cumulative capital costs from November 1980 through November 1985 would be $1,300,000, and the annualized cost would be $620,000. These costs could increase the product price of asphalt shingles by 0.12 percent. If the product price is not increased, the reduction in net profit would be about 0.3 percent. The costs associated with the standard are not expected to inhibit industry growth.

The environmental, energy, and economic impacts are discussed in greater detail in the background information document for the promulgated standards, "Asphalt Roofing Manufacturing Industry, Background Information for Promulgated Standards of Performance," EPA 450/3–80–021b.

Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the **Federal Register** (44 FR 65670) of a meeting of the National Air Pollution Control Techniques Advisory Committee to discuss the asphalt processing and asphalt roofing manufacture standard recommended for proposal. This meeting was held on December 12, 1979. The meeting was open to the public, and each attendee was given an opportunity to comment on the standards recommended for proposal. The standards were proposed and published in the **Federal Register** on November 18, 1980 (45 FR 76404). The preamble to the proposed standards discussed the availability of the background information document (BID), "Asphalt Roofing Manufacturing Industry Background Information for Proposed Standards," EPA 450–3–80–021a. The regulatory alternatives considered and the impacts of those alternatives are described in detail in the BID. The opportunity for a public hearing was provided at the time of proposal. Since no requests for a hearing were received, a public hearing was not held. Public comments were solicited at the time of proposal; and, when requested, copies of the BID were distributed to interested parties. The public comment period was from November 18, 1980, to January 19, 1981. Eighteen comment letters were received concerning issues relative to the proposed standards of performance for the asphalt processing and asphalt roofing manufacture industry. On May 26, 1981, an amendment to the proposed standards was published in the **Federal Register** (46 FR 28180). This amendment clarified that the proposed standards applied to asphalt blowing stills and

asphalt storage tanks used for roofing and/or nonroofing asphalts located at asphalt processing plants, petroleum refineries, and asphalt roofing plants. Public comments were solicited on the proposed amendment at that time. The public comment period was from May 26, 1981, to July 10, 1981. Three comment letters were received. The comments have been carefully considered and, where determined by the Administrator to be appropriate, changes have been made to the proposed standards.

Significant Comments and Changes to the Proposed Standards

Comments on the proposed standards were received from the following: asphalt roofing manufacturers; petroleum refiners; trade associations; State and Federal government offices; one consultant to the petroleum refining industry; and one individual. A detailed discussion of these comments and responses can be found in the BID that is referred to in the **ADDRESSES** section of this preamble. The summary of comments and responses in the BID serves as the basis for the revisions which have been made to the standards since proposal. The major and/or most frequent comments and responses are summarized in this preamble. Most major comments are discussed in the following sections: Opacity Standard for Stills, Monitoring Requirements, Applicability of the Standard to Asphalt Storage Tanks, Storage Tank Opacity Limit, and Reference Test Method 5A.

Opacity Standards for Stills

Several commenters stated that the zero opacity limit for stills might not be attainable if the afterburner were fired with fuel oil instead of natural gas. The tested afterburner was fired with natural gas during the emission and opacity test program. It is EPA's judgment that the zero opacity limit is achievable when fuel oil is used to fire an afterburner. However, the Administrator agrees that there may be a chance that the opacity would exceed zero when fuel oil is used. Therefore, § 60.474(k) has been added and describes the procedures that an owner or operator may follow, in accordance with § 60.11(e) of the General Provisions, to petition the Administrator to establish an opacity standard for a blowing still that will be the opacity standard when fuel oil is used to fire the afterburner. If the owner or operator does not elect to follow the prescribed procedure for establishing the opacity limit, the opacity limit when fuel oil is used will be 0 percent, the same as the limit when natural gas is used to fire the afterburner.

Several commenters stated that the opacity standard for stills forced them to use afterburners as the only control device for blowing stills. EPA has stated that any control device that meets the standard may be used. If the control device meets the particulate emission limit during a performance test but does not meet the opacity limit, the operator may petition the Administrator under § 60.11(e) of the General Provisions for an adjustment to the opacity standard for that affected facility.

Monitoring Requirements

Several commenters stated that the requirements to record continuously the operating temperature, maintain the temperature records for 2 years, and report excess emissions quarterly would make excessive demands on personnel or would require additional personnel.

The recordkeeping and reporting requirements were reviewed to determine if their purpose (ensuring proper operation and maintenance of the control device) could be achieved with fewer recordkeeping and/or reporting requirements. The temperature of the control device would be recorded automatically by an instrument onto a permanent, hard copy record. Such automatic recording and subsequent storage for 2 years should not place an excessive demand on personnel, so the recordkeeping requirements are not being changed. Without this requirement, the owner/operator and the enforcement agency would have difficulty determining if the control device were being properly operated and maintained.

The records of constant temperature monitoring, together with the opacity standards being promulgated, should provide enforcement agencies with sufficient means of ensuring that the control devices are properly maintained and operated on a continuous basis without the necessity for quarterly reports. Therefore, in an effort to reduce reporting costs, the Administrator removed the requirement for quarterly reports from the regulation.

Several commenters suggested that constant temperature monitoring "would not be of value" to the enforcement agency in determining if the emission standard had been met or if excess emissions had occurred since temperature was only one of several parameters that determine emissions.

The constant temperature monitoring requirement is based on Section 302(1) of the Clean Air Act which provides:

> The term "standard of performance" means a requirement of continuous emission reduction, including any *requirement relating to the operation or maintenance of a source to assure continuous emission reduction.* [Emphasis added.]

EPA believes that changes in temperature from those measured during a performance test are good indicators for an owner/operator and an enforcement agency to use to verify good operation and maintenance. Exceeding the temperature measured during the performance test for an HVAF or ESP or not maintaining at least the temperature measured during the performance test for an afterburner could indicate a violation of the requirement to operate and maintain properly the control equipment, as stated in § 60.11(d) of the General Provisions. This section states:

> At all times, including periods of startup, shutdown, and malfunction, owners and operators shall to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

Although periods of temperature excursions or reductions (depending on the control device) as determined by temperature measurements would not, of themselves, constitute a violation of the numerical emission limits, they may indicate to an enforcement agency the need to conduct a performance test. The results of the performance test would be used to determine compliance with the numerical emission limits, in accordance with § 60.11(a) of the General Provisions.

EPA acknowledges that the operating temperature of the control device is one of several parameters that determine the amount of particulate emitted and that the correlation between operating temperature and emissions is not absolute. However, it would be burdensome for the owner or operator to keep records of all parameters that influence emissions and then enter values for these parameters into a formula in order to calculate emissions. Instead, EPA believes that the best way to demonstrate proper operation and maintenance is to monitor only temperature, which is critical to the destruction or collection of particulate hydrocarbons.

For afterburners, temperature, hydrocarbon concentration, and exposure time at temperature all influence destruction efficiency. The

emission data collected during the testing program (BID Volume 1 Chapter 4) and other data (Docket No. A–79–39–II–I–025) used in the analyses show that if the residence time is constant, the afterburner operating temperature is critical to the efficiency of hydrocarbon destruction. For HVAF's and ESP's, the collection efficiency increases as the operating temperature decreases (BID Volume 1 Chapter 4).

Applicability of the Standards to Asphalt Storage Tanks

Commenters questioned the applicability of the standards to asphalt storage tanks containing emulsified asphalt, cutback asphalt, or paving asphalt. The commenters stated that the physical properties and emission characteristics of emulsified asphalt, cutback asphalt, and paving asphalt differ from those of roofing asphalt and should, therefore, be excluded from the standards. The Administrator has determined that storage of cutback asphalts (asphalts mixed with solvents to reduce viscosity and thereby facilitate low temperature applications) and storage of emulsified asphalts (asphalts finely dispersed in water with an emulsifying agent) are excluded from these standards. However, blowing and/or storage of all other asphalts, whether used for roofing, paving, or other nonroofing purposes, are included in the standards. These asphalts are essentially the same as some roofing asphalts and are oxidized or stored in the same type of equipment. If the applicability of the standards depended on the eventual use of the product, a still or storage tank could be subject to the regulation on one day (while blowing or storing roofing asphalt) but not subject to the regulation on another day (while blowing or storing nonroofing asphalt). Even if the same still or storage tank were not used for more than one type of asphalt, there could be one unit devoted to roofing asphalts and subject to the regulation while another identical unit devoted to nonroofing asphalts would not be subject to the regulation. Furthermore, to meet the increased demand for roofing asphalt, a manufacturer could increase capacity by constructing new stills or storage tanks but then limit the use of the new facilities to nonroofing asphalts while devoting a larger number of existing facilities to roofing asphalts, thereby circumventing the emission standard (46 FR 28180).

Since the processes and control technologies are the same whether the asphalt is to be used for roofing or nonroofing purposes, the emission limits remain achievable. Therefore, blowing stills and storage tanks for paving and other nonroofing asphalts are included in the standards. The definition of "asphalt storage tanks" was changed with the amendment to the proposed standards (46 FR 28180) to specifically exempt cutback and emulsified asphalts.

Storage Tank Opacity Limit

A commenter suggested that the opacity limit on emissions from asphalt storage tanks should should be relaxed to permit visible emissions for periods not to exceed 15 minutes in any 24-hour period. This would allow continuation of the necessary industry practice of blowing transfer lines to clear high softening point asphalt from the lines before it solidifies. Often large transfer lines in refineries are thousands of feet long, terminate at remote locations, and must be quickly cleared of asphalt to avoid plugging. At remote locations the only practical method of clearing the line is to blow the line back to the tank using nitrogen or air.

The opacity standard for asphalt storage tanks has been changed to allow the blowing back of the transfer lines. The promulgated standard allows emissions for not more than 15 consecutive minutes in any 24-hour period and states that the control device must not be bypassed during this 15-minute period.

Reference Test Method 5A

During the public comment period following proposal of the standards, several comments were received regarding the proposed Reference Test Method 5A (formerly Method 26). This test method was developed specifically to measure emissions from asphalt processing and asphalt roofing manufacture facilities, since Reference Test Method 5, the EPA method usually used to determine particulate emissions, could not accurately measure asphalt emissions. Several commenters objected that EPA did not attempt to correlate Method 5A results with industry results previously obtained using Method 5. One of these commenters cited test results that indicated Method 5A measurements made at one facility were six times higher than Method 5 measurements made at the same facility. Because of this difference, the commenter was concerned that the standards may not be achievable if measurements were made using Method 5A.

There are two significant differences between Method 5A and Method 5. One difference between the methods is the procedure followed to clean the sampling probe: in Method 5 an acetone rinse is used; in Method 5A a trichloroethane rinse is used to remove the collected asphalt. A second difference is the temperature of the sampling probe and filter: in Method 5 the probe and filter are maintained at 121 ± 14°C; in Method 5A the probe and filter are maintained at 42 ± 10°C. These two differences could account for a major portion of the differences in test results cited by the commenter.

Test data from Method 5 were not used to establish the emission limits nor to assess the performance of control equipment. The standards are based solely on data from Method 5A. Three control devices, representative of best demonstrated technology, were tested at asphalt roofing plants. The proposed emission limits were set at levels achievable by each of the three control devices, using Method 5A to measure the emissions. If best demonstrated technology is used to control emissions, the standards will be achievable using Method 5A as the compliance test method. A correlation between the results of Method 5 and Method 5A, assuming such a correlation is possible, would not change the achievability of the standards.

A major point made later by one commenter is that Method 5A results vary according to the temperature of the sampling filter: the higher the filter temperature, the lower the test results. This commenter used Method 5A to measure emissions from a saturator. A series of twelve individual test runs was conducted over a 16.6°C temperature range. The commenter then compared the results of two individual runs that were collected simultaneously, one at a filter temperature of 39.4°C and the other at a filter temperature of 51.1°C. The results were 0.024 kg/Mg and 0.010 kg/Mg, respectively. The commenter believes the 0.014 kg/Mg difference, due to filter temperature (as the only variable), indicates that Method 5A results are unreliable.

The Agency acknowledges that Method 5A test results vary according to sampling filter temperature. The reason is because Method 5A measures condensed hydrocarbons, and whether or not the hydrocarbons are in the condensed form is a function of temperature. The temperature dependence is related to the physical properties of the hydrocarbons being measured rather than to the test method. Asphalt emissions consist of tars, oils, and other hydrocarbons. Whether these materials are in the particulate (liquid) or gaseous state is a function of temperature. Because of this temperature dependence, emission control can be achieved by cooling the

emissions to form particulates and then removing the particulates by means of control devices such as electrostatic precipitators, scrubbers, or filters. Without this cooling and subsequent removal, the gaseous hydrocarbons would be emitted to the atmosphere where they would condense, at air temperatures, to form particulates. Better control of these condensible hydrocarbons is achieved by cooling them to form particulates prior to removal by the control devices.

A compliance test method designed to reflect the performance of the control system must measure condensed emissions and therefore must be conducted at low temperatures. The temperature of the Method 5A sampling train during acquisition of the test data for the proposed standards was maintained over the range of 32°C to 52°C. This allowable range is included in Method 5A to allow for normal variation in sampling temperature without excessive care by the test team. The commenter's data demonstated that if the temperature of the sampling train is maintained over a narrow range (3.3°C), the measured particulate at a low average sampling temperature will be higher than the measured particulate at a higher average sampling temperature. This result is consistent with the expected change in the physical state (liquid or gas) of the emissions.

The extent of the variability in test results is limited by the inclusion of both a minimum and a maximum sampling temperature in Method 5A. In addition, performance test results are required to be an average of three test runs (§ 60.8(f) of the General Provisions), further reducing the variability of test results. If the commenter had averaged the three individual runs with filter temperatures closest to each of the two temperatures (39.4° and 51.1°C), the results compared would have been 0.017 kg/Mg and 0.008 kg/Mg, a difference of 0.009 kg/Mg. It should be noted that the level of the standard for saturators is 0.04 kg/Mg, a limit well above the commenter's highest test run result of 0.024 kg/Mg.

Other Changes Made to Standard Since Proposal

On May 26, 1981, an amendment to the proposed standard was published (46 FR 28180). This amendment clarified that the blowing and storing of nonroofing asphalts are included in the standard. The amendment added the definitions of asphalt processing plant and asphalt roofing plant, removed the definition of asphalt roofing manufacture, and changed the definitions of asphalt processing and blowing still so that they were not limited to roofing asphalts.

The definition of saturant blow was removed from the regulation. An explanation of this change is contained in the BID.

Saturators that become subject to the standards as a result of modification have been exempted from the visible emissions standard. At this time there is not enough information available about the cost of retrofitting enclosures for the Agency to be certain that the costs would be reasonable in all cases. Therefore, an exemption from the visible emissions standard for modified saturators was added to the regulation. Existing saturators that become subject to the standards through reconstruction are not exempt from the visible emissions standard, since possible constraints associated with retrofitting the enclosure would not be present with reconstructed saturators.

The number of Method 26 was changed to Method 5A. The proposed version of Method 5A did not specify a minimum temperature or a range of operating temperatures. Because the collection temperature directly affects the amount of particulate collected, the Administrator has decided to specify a range of filter and probe temperatures including an upper and lower limit for operation. The probe and filter operating temperature specifications have been revised to 42°±10°C (108°±18°F). All of the emission tests were performed within this temperature range. The results of EPA's emission tests show that this range of temperatures can be maintained by commercially available source sampling equipment. This specification will minimize the effect of temperature variations during sampling on the amount of particulate collected and will not interfere with the achievability of the standard. Method 5A has been further revised to clarify that the precollector cyclone is not to be used except under specific stack conditions. Use of the glass wool filter has been eliminated as being unnecessary for sampling well controlled sources. Method 22 was changed to require prescribed training of the observer.

Docket

Docket No. A–79–39 is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review (except for those portions of the docket excluded from the record under Section 307(d)(7)(A)).

Miscellaneous

The effective date of this regulation is August 6, 1982. Section 111 of the Clean Air Act provides that standards of performance or revisions thereof become effective upon promulgation and apply to any saturator or mineral handling and storage facility that commences construction or modification after November 18, 1980. Any asphalt storage tank or blowing still that processes and/or stores asphalt used for roofing only or for roofing and other purposes, and that commences construction or modification after November 18, 1980, is subject to the requirements of this regulation. Any asphalt storage tank or blowing still that processes and/or stores only nonroofing asphalts and that commences construction or modification after May 26, 1981, is subject to the requirements of this regulation.

As prescribed by Section 111, the promulgation of these standards was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of these promulgated standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for this regulation and for

other regulatory alternatives. All aspects of the assessment were considered in the formulation of the standards to ensure that cost was carefully considered in determining BDT. The economic impact assessment is included in the background information document for the proposed standards. The BID contains (1) a summary of all the public comments made on the proposed standards and the Administrator's responses to the comments, (2) a summary of the changes made to the standards since proposal, and (3) the final environmental impact statement, which summarizes the impacts of the standards.

The Paperwork Reduction Act of 1980 (Pub. L. 96–511) requires clearance from the Office of Management and Budget (OMB) of certain public reporting/recordkeeping requirements before certain information requests can be made to the public. The reporting/recordkeeping requirements associated with this standard have been approved by OMB.

"Major Rule" Determination. Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and therefore subject to certain requirements of the Order. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." Fifth-year annualized costs of the standard would be $620,000. The product wholesale price could increase about 0.15 percent, which could increase the price for a roof on a typical 3-bedroom house by about $3.00. If the costs were absorbed, the resulting drop in net profit after taxes could be about 0.3 percent. The Agency has also concluded that this rule is not "major" under either of the other criteria established in the Executive Order. The Agency has therefore concluded that the proposed regulation is not a "major rule" under Executive Order 12291.

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

Regulatory Flexibility Analysis Certification.

A Regulatory Flexibility Analysis was not required for this regulation, because it was proposed before January 1, 1981. However, an analysis was prepared to ascertain if there would be a significant impact on small business.

Current Small Business Administration (SBA) guidelines stipulate that a small business entity in SIC code 2952, asphalt felts and coatings, is one that has 750 employees or less.[1] This is the criterion to qualify for SBA loans or for the purpose of Government procurement. Of the 31 companies that comprise the asphalt processing and asphalt roofing industry, 13 might qualify as small entities. These companies could become subject to the new source performance standard by building a new facility or by modifying or reconstructing an existing one.

Current EPA criteria stipulate that a regulatory flexibility analysis must be prepared if 20 percent of the small business entities (two to three asphalt processing or asphalt roofing companies) will suffer "significant impacts."

Growth projections indicate that over the next 5 years, 5 new plants, 5 new roofing lines, and 25 saturators could become subject to the NSPS. Thirteen small entities now own 12 percent of the existing plants. If the growth were evenly distributed among existing companies, the 13 small companies would build one new plant and modify or reconstruct two to three saturators. If this new plant and the three affected saturators were each owned by a different company, the 20 percent criterion would be exceeded.

EPA sought to ascertain whether or not any of these four companies would suffer significant impacts if it became subject to the NSPS. A new plant typical of the small entity sector would be a saturated felt plant with a capacity of 27,000 Mg/yr (30,000 tons/yr). To meet existing State requirements, such a plant would cost $5,800,000 to build and $7,900.000 a year to operate.[2] For an additional $56,000 in building costs and $25,000 in annualized costs, the plant could be brought into compliance with the NSPS regulatory requirements. [2] This additional cost represents less than 1 percent of investment and less than 0.3 percent of annualized cost. These impacts are not considered significant.

Five saturator reconstructions are anticipated as a result of fires. Of these, one reconstruction could be done by a small entity. To comply with the NSPS would require an additional $20,300 in capital and $8,500 in annualized costs.[3] This additional expense is not expected to cause a significant impact. However, if it did cause a significant impact and the company could demonstrate that it is not "economically feasible" to comply with the NSPS, the Administrator could exempt the company from the NSPS requirements in accordance with § 60.15(b)(2) of the General Provisions.

One to two small companies may modify the saturator to increase production by 20 percent. If this cannot be done within the maintenance expenditure guidelines of IRS Bulletin 534, the saturator would become an affected facility under the NSPS. The additional costs for each modified saturator would be, $20,300 capital and $8,500 annualized costs. However, the decision to increase capacity is a financial one. If the market for greater capacity exists and the costs to install that capacity can be recaptured at an acceptable rate of return, a company will opt to make the investment. If, on the other hand, there are more attractive investments, the company will probably invest the money elsewhere. The extra cost for NSPS compliance may make the decision to increase capacity less attractive if the costs to comply with NSPS requirements cannot be quickly recaptured. However, the decision by a company not to increase capacity cannot be called a significant impact if that company decides on a more lucrative use for its funds.

In conclusion, the economic impacts on small business are minor for new plants because the incremental capital and annualized costs are relatively small. Significant impacts need not be incurred from reconstruction or modification.

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

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc

Dated: July 19, 1982.

Anne M. Gorsuch,

Administrator.

References

[1] 13 CFR 121.3, Schedules A and B.

[2] Docket No. A–79–39–IV–B–003.

[3] Asphalt Roofing Manufacturing Industry—Background Information for Proposed Standards. EPA 450/3–80–021a. June 1980. pp. 8–88 and 8–104.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Accordingly, 40 CFR Part 60 is amended as follows:

1. By adding Subpart UU as follows:

Subpart UU—Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture

Sec.

60.470 Applicability and designation of affected facilities.
60.471 Definitions.
60.472 Standards for particulate matter.
60.473 Monitoring of operations.
60.474 Test methods and procedures.

Authority: Sec. 111, 301(a), Clean Air Act, as amended, (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

Subpart UU—Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture

§ 60.470 Applicability and designation of affected facilities.

(a) The affected facilities to which this subpart applies are each saturator and each mineral handling and storage facility at asphalt roofing plants; and each asphalt storage tank and each blowing still at asphalt processing plants, petroleum refineries, and asphalt roofing plants.

(b) Any saturator or mineral handling and storage facility under paragraph (a) of this section that commences construction or modification after November 18, 1980, is subject to the requirements of this subpart. Any asphalt storage tank or blowing still that processes and/or stores asphalt used for roofing only or for roofing and other purposes, and that commences construction or modification after November 18, 1980, is subject to the requirements of this subpart.

Any asphalt storage tank or blowing still that processes and/or stores only nonroofing asphalts and that commences construction or modification after May 26, 1981, is subject to the requirements of this subpart.

§ 60.471 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in Subpart A of this part.

"Afterburner (A/B)" means an exhaust gas incinerator used to control emissions of particulate matter.

"Asphalt processing" means the storage and blowing of asphalt.

"Asphalt processing plant" means a plant which blows asphalt for use in the manufacture of asphalt products.

"Asphalt roofing plant" means a plant which produces asphalt roofing products (shingles, roll roofing, siding, or saturated felt).

"Asphalt storage tank" means any tank used to store asphalt at asphalt roofing plants, petroleum refineries, and asphalt processing plants. Storage tanks containing cutback asphalts (asphalts diluted with solvents to reduce viscosity for low temperature applications) and emulsified asphalts (asphalts dispersed in water with an emulsifying agent) are not subject to this regulation.

"Blowing still" means the equipment in which air is blown through asphalt flux to change the softening point and penetration rate.

"Catalyst" means means a substance which, when added to asphalt flux in a blowing still, alters the penetrating-softening point relationship or increases the rate of oxidation of the flux.

"Coating blow" means the process in which air is blown through hot asphalt flux to produce coating asphalt. The coating blow starts when the air is turned on and stops when the air is turned off.

"Electrostatic precipitator (ESP)" means an air pollution control device in which solid or liquid particulates in a gas stream are charged as they pass through an electric field and precipitated on a collection suface.

"High velocity air filter (HVAF)" means an air pollution control filtration device for the removal of sticky, oily, or liquid aerosol particulate matter from exhaust gas streams.

"Mineral handling and storage facility" means the areas in asphalt roofing plants in which minerals are unloaded from a carrier, the conveyor transfer points between the carrier and the storage silos, and the storage silos.

"Saturator" means the equipment in which asphalt is applied to felt to make asphalt roofing products. The term saturator includes the saturator, wet looper, and coater.

§ 60.472 Standards for particulate matter.

(a) On and after the date on which § 60.8(b) requires a performance test to be completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any saturator:

(1) Particulate matter in excess of: (i) 0.04 kilograms of particulate per megagram of asphalt shingle or mineral-surfaced roll roofing produced, or (ii) 0.4 kilograms per megagram of saturated felt or smooth-surfaced roll roofing produced;

(2) Exhaust gases with opacity greater than 20 percent; and

(3) Any visible emissions from a saturator capture system for more than 20 percent of any period of consecutive valid observations totaling 60 minutes. Saturators that were constructed before November 18, 1980, and that have not been reconstructed since that date and that become subject to these standards through modification are exempt from the visible emissions standard. Saturators that have been newly constructed or reconstructed since November 18, 1980 are subject to the visible emissions standard.

(b) On and after the date on which § 60.8(b) requires a performance test to be completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any blowing still:

(1) Particulate matter in excess of 0.67 kilograms of particulate per megagram of asphalt charged to the still when a catalyst is added to the still; and

(2) Particulate matter in excess of 0.71 kilograms of particulate per megagram of asphalt charged to the still when a catalyst is added to the still and when No. 6 fuel oil is fired in the afterburner; and

(3) Particulate matter in excess of 0.60 kilograms of particulate per megagram of asphalt charged to the still during blowing without a catalyst; and

(4) Particulate matter in excess of 0.64 kilograms of particulate per megagram of asphalt charged to the still during blowing without a catalyst and when No. 6 fuel oil is fired in the afterburner; and

(5) Exhaust gases with an opacity greater than 0 percent unless an opacity limit for the blowing still when fuel oil is used to fire the afterburner has been established by the Administrator in accordance with the procedures in § 60.474(k).

(c) Within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any asphalt storage tank exhaust gases with opacity greater than 0 percent, except for one consecutive 15-minute period in any 24-hour period when the transfer lines are being blown for clearing. The control device shall not be bypassed during this 15-minute period. If, however, the emissions from any asphalt storage tank(s) are ducted to a control device for a saturator, the combined emissions shall meet the emission limit contained in paragraph (a) of this section during the time the saturator control device is operating. At any other time the asphalt storage tank(s) must meet the opacity limit specified above for storage tanks.

(d) Within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility, no owner or operator subject to the provisions of this subpart shall cause to be discharged

into the atmosphere from any mineral handling and storage facility emissions with opacity greater than 1 percent.

§ 60.473 Monitoring of operations.

(a) The owner or operator subject to the provisions of this subpart, and using either an electrostatic precipitator or a high velocity air filter to meet the emission limit in § 60.472(a)(1) and/or (b)(1) shall continuously monitor and record the temperature of the gas at the inlet of the control device. The temperature monitoring instrument shall have an accuracy of ±15°C over its range.

(b) The owner or operator subject to the provisions of this subpart and using an afterburner to meet the emission limit in § 60.472(a)(1) and/or (b)(1) shall continuously monitor and record the temperature in the combustion zone of the afterburner. The monitoring instrument shall have an accuracy of ±10°C over its range.

(c) An owner or operator subject to the provisions of this subpart and using a control device not mentioned in paragraphs (a) and (b) of this section shall provide to the Administrator information describing the operation of the control device and the process parameter(s) which would indicate proper operation and maintenance of the device. The Administrator may require continuous monitoring and will determine the process parameters to be monitored.

(d) The industry is exempted from the quarterly reports required under § 60.7(c). The owner/operator is required to record and report the operating temperature of the control device during the performance test and, as required by § 60.7(d), maintain a file of the temperature monitoring results for at least two years.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414))

§ 60.474 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided in § 60.8(b), shall be used to determine compliance with the standards prescribed in § 60.472 as follows:

(1) Method 5A for the concentration of particulate matter.

(2) Method 1 for sample and velocity traverses;

(3) Method 2 for velocity and volumetric flow rate;

(4) Method 3 for gas analysis; and

(5) Method 9 for opacity.

(b) The Administrator will determine compliance with the standards prescribed in § 60.472(a)(3) by using Method 22, modified so that readings are recorded every 15 seconds for a period of consecutive observations during representative conditions (in accordance with § 60.8(c) of the General Provisions) totaling 60 minutes. A performance test shall consist of one run.

(c) For Method 5A the sampling time for each run on a saturator shall be at least 120 minutes, and the sampling volume shall be at least 3 dscm. Method 5A shall be used to measure the emissions from the saturator while 106.6-kg (235-lb) asphalt shingle is being produced if the final product is shingle or mineral-surfaced roll roofing or while 6.8-kg (15-lb) saturated felt is being produced if the final product is saturated felt or smooth-surfaced roll roofing. If the saturator produces only fiberglass shingles, Method 5A shall be used to measure saturator emissions while a nominal 100-kg (220-lb) shingle is being produced. Method 5A shall be used to measure emissions from the blowing still for at least 90 minutes or for the duration of the coating blow, whichever is greater. If the blowing still is not used to blow coating asphalt, Method 5A shall be used to measure emissions from the blowing still for at least 90 minutes or for the duration of the blow, whichever is greater.

(d) The particulate emission rate, E, shall be computed as follows:

$E = Q_{sd} \times C_s$

(1) E is the particulate emission rate (kg/h);

(2) Q_{sd} is the average volumetric flow rate (dscm/h) as determined by Method 2; and

(3) C_s is the average concentration (kg/dscm) of particulate matter as determined by Method 5A.

(e) The asphalt roofing production rate, P (Mg/h), shall be determined by dividing the weight in megagrams (Mg) of roofing produced on the shingle or saturated felt process lines during the performance test by the number of hours required to conduct the performance test. The roofing production shall be obtained by direct measurement.

(f) The production rate of asphalt from the blowing still, P_s (Mg/h), shall be determined by dividing the weight of asphalt charged to the still by the time required for the performance test during an asphalt blow. The weight of asphalt charged to the still shall be determined at the starting temperature of the blow. The weight of asphalt shall be converted from the volume measurement as follows:

$M = Vd/c$

M = weight of asphalt in megagrams
V = volume of asphalt in cubic meters
d = density of asphalt in kilograms per cubic meter
c = conversion factor 1,000 kilograms per megagram

The density of asphalt at any measured temperature is calculated by using the following equation:

$d = 1056.1 - (0.6176 \times °C)$

The method of measurement shall have an accuracy of ±10 percent.

(g) The saturator emission rate shall be computed as follows: $R = E/P$.

(h) The blowing still emission rate shall be computed as follows: $R_s = E/P_s$ where:

(1) R is the saturator emission rate (kg/Mg);

(2) R_s is blowing still emission rate (kg/Mg);

(3) E is the particulate emission rate (kg/h) from paragraph (c) of this section;

(4) P is the asphalt roofing production rate (Mg/h); and

(5) P_s is the asphalt charging rate (Mg/h).

(i) Temperature shall be measured and continuously recorded with the monitor required under § 60.473 (a) or (b) during the measurement of particulate by Method 5A and reported to the Administrator with the performance test results.

(j) If at a later date the owner or operator believes the emission limits in § 60.472 (a) and (b) are being met even though the temperature measured in accordance with § 60.473 paragraph (a) is exceeding that measured during the performance test, he may submit a written request to the Administrator to repeat the performance test and procedure outlined in paragraph (h) of this section.

(k) If fuel oil is to be used to fire an afterburner used to control a blowing still, the owner or operator may petition the Administrator in accordance with § 60.11(e) of the General Provisions to establish an opacity standard for the blowing still that will be the opacity standard when fuel oil is used to fire the afterburner. To obtain this opacity standard, the owner or operator must request the Administrator to determine opacity during an initial, or subsequent, performance test when fuel oil is used to fire the afterburner. Upon receipt of the results of the performance test, the Adminstrator will make a finding concerning compliance with the mass standard for the blowing still. If the Administrator finds that the facility was in compliance with the mass standard during the performance test but failed to meet the zero opacity standard, the Administrator will establish and promulgate in the **Federal Register** an opacity standard for the blowing still that will be the opacity standard when fuel oil is used to fire the afterburner. When the afterburner is fired with natural gas, the zero percent opacity

remains the applicable opacity standard.

Method 5A—Determination of Particulate Emissions from the Asphalt Processing and Asphalt Roofing Industry

1. *Applicability and Principle.*

1.1 *Applicability.* This method applies to the determination of particulate emissions from asphalt roofing industry process saturators, blowing stills, and other sources as specified in the regulations.

1.2 *Principle.* Particulate matter is withdrawn isokinetically from the source and collected on a glass filter fiber maintained at a temperature of 42°±10°C (108°±18°F). The particulate mass, which includes any material that condenses at or above the filtration temperature, is determined gravimetrically after removal of uncombined water.

2. *Apparatus.*

2.1 *Sampling Train.* The sampling train configuration is the same as shown in Figure 5–1 of Method 5. The sampling train consists of the following components:

2.1.1 *Probe Nozzle, Pitot Tube, Differential Pressure Gauge, Filter Holder, Condenser, Metering System, Barometer, and Gas Density Determination Equipment.* Same as Method 5, Sections 2.1.1, 2.1.3 to 2.1.5, and 2.1.7 to 2.1.10, respectively.

2.1.2 *Probe Liner.* Same as in Method 5, Section 2.1.2, with the note that at high stack gas temperatures (greater than 250°C (480°F)), water-cooled probes may be required to control the probe exit temperature to 42°±10°C (108±18°F).

2.1.3 *Precollector Cyclone.* Borosilicate glass following the construction details shown in Air Pollution Technical Document–0581, "Construction Details of Isokinetic Source-Sampling Equipment".

Note.—The tester shall use the cyclone when the stack gas moisture is greater than 10 percent. The tester shall not use the precollector cyclone under other, less severe conditions.

2.1.4 *Filter Heating System.* Any heating (or cooling) system capable of maintaining a sample gas temperature at the exit end of the filter holder during sampling at 42°±10°C (108°±18°F). Install a temperature gauge capable of measuring temperature to within 3°C (5.4°F) at the exit end of the filter holder so that the sample gas temperature can be regulated and monitored during sampling. The tester may use systems other than the one shown in APTD–0581.

2.2 *Sample Recovery.* The equipment required for sample recovery is as follows:

2.2.1 *Probe-Liner and Probe-Nozzle Brushes, Graduated Cylinder and/or Balance, Plastic Storage Containers, and Funnel and Rubber Policeman.* Same as Method 5, Sections 2.2.1, 2.2.5, 2.2.6, and 2.2.7, respectively.

2.2.2 *Wash Bottles.* Glass.

2.2.3 *Sample Storage Containers.* Chemically resistant, borosilicate glass bottles, with rubber-backed Teflon screw cap liners or caps that are constructed so as to be leak-free and resistant to chemical attack by 1,1,1-trichloroethane (TCE), 500-ml or 1000-ml. (Narrow mouth glass bottles have been found to be less prone to leakage.)

2.2.4 *Petri Dishes.* Glass, unless otherwise specified by the Administrator.

2.2.5 *Funnel.* Glass.

2.3 *Analysis.* For analysis, the following equipment is needed:

2.3.1 *Glass Weighing Dishes, Desiccator, Analytical Balance, Balance, Hygrometer, and Temperature Gauge.* Same as Method 5, Sections 2.3.1 to 2.3.4, 2.3.6, and 2.3.7, respectively.

2.3.2 *Beakers.* Glass, 250-ml and 500-ml.

2.3.3 *Separatory Funnel.* 100-ml or greater.

3. *Reagents.*

3.1 *Sampling.* The reagents used in sampling are as follows:

3.1.1. *Filters, Silica Gel, and Crushed Ice.* Same as Method 5, Sections 3.1.1, 3.1.2, and 3.1.4, respectively.

3.1.2 *Stopcock Grease.* TCE-insoluble, heat-stable grease (if needed). This is not necessary if screw-on connectors with Teflon sleeves, or similar, are used.

3.2 *Sample Recovery.* Reagent grade 1,1,1-trichloroethane (TCE), ≦0.001 percent residue and stored in glass bottles, is required. Run TCE blanks prior to field use and use only TCE with low blank values (≦0.001 percent). The tester shall in no case subtract a blank value of greater than 0.001 percent of the weight of TCE used from the sample weight.

3.3 *Analysis.* Two reagents are required for the analysis:

3.3.1 *TCE.* Same as 3.2.

3.3.2 *Desiccant.* Same as Method 5, Section 3.3.2.

4. *Procedure.*

4.1 *Sampling Train Operation.* The complexity of this method is such that in order to obtain reliable results, testers should be trained and experienced with Method 5 test procedures.

4.1.1 *Pretest Preparation.* Unless otherwise specified, maintain and calibrate all components according to the procedure described in Air Pollution Technical Document-0576, "Maintenance, Calibration, and Operation of Isokinetic Source-Sampling Equipment".

Prepare probe liners and sampling nozzles as needed for use. Thoroughly clean each component with soap and water followed by a minimum of three TCE rinses. Use the probe and nozzle brushes during at least one of the TCE rinses (refer to Section 4.2 for rinsing techniques). Cap or seal the open ends of the probe liners and nozzles to prevent contamination during shipping.

Prepare silica gel portions and glass filters as specified in Method 5, Section 4.1.1.

4.1.2 *Preliminary Determinations.* Select the sampling site, probe nozzle, and probe length as specified in Method 5, Section 4.1.2.

Select a total sampling time greater than or equal to the minimum total sampling time specified in the test procedures section of the applicable regulation. Follow the guidelines outlined in Method 5, Section 4.1.2, for sampling time per point and total sample volume collected.

4.1.3 *Preparation of Collection Train.* Prepare the collection train as specified in Method 5, Section 4.1.3, with the addition of the following:

Set up the sampling train as shown in Figure 5–1 of Method 5 with the addition of the precollector cyclone, if used, between the probe and filter holder. The temperature of the precollector cyclone, if used, should be about the same as for the filter, i.e., 42°±10°C (108°±18°F). Use no stopcock grease on ground glass joints unless the grease is insoluble in TCE.

4.1.4 *Leak Check Procedures.* Follow the procedures given in Method 5, Sections 4.1.4.1 (Pretest Leak Check), 4.1.4.2 (Leak Check During Sample Run), and 4.1.4.3 (Post-Test Leak Check).

4.1.5 *Particulate Train Operation.* Operate the sampling train as described in Method 5, Section 4.1.5, except maintain the gas temperature exiting the filter at 42°±10°C (108°±18°F).

4.1.6 *Calculation of Percent Isokinetic.* Same as in Method 5, Section 4.1.6.

4.2 *Sample Recovery.* Using the procedures and techniques described in Method 5, Section 4.2, quantitatively recover any particulate matter into the following containers (additions and deviations to the stated procedures are as noted):

4.2.1 *Container No. 1 (Filter).* Same instructions as Method 5, Section 4.2, "Container No. 1." If it is necessary to fold the filter, do so such that the film of oil is inside the fold.

4.2.2 *Container No. 2 (Probe to Filter Holder).* Taking care to see that material on the outside of the probe or other exterior surfaces does not get into the sample, quantitatively recover particulate matter or any condensate from the probe nozzle, probe fitting, probe liner, precollector cyclone and collector flask (if used), and front half of the filter holder by washing these components with TCE and placing the wash in a glass container. Carefully measure the total amount of TCE used in the rinses. Perform the TCE rinses as described in Method 5, Section 4.2, "Container No. 2," using TCE instead of acetone.

Brush and rinse the inside of the cyclone, cyclone collection flask, and the front half of the filter holder. Brush and rinse each surface three times or more, if necessary, to remove visible particulate.

4.2.3 *Container No. 3 (Silica Gel).* Same procedure as in Method 5, Section 4.2, "Container No. 3."

4.2.4 *Impinger Water.* Treat the impingers as follows: Make a notation of any color or film in the liquid catch. Follow the same procedure as in Method 5, Section 4.2, "Impinger Water."

4.2.5 *Blank.* Save a portion of the TCE used for cleanup as a blank. Take 200 ml of this TCE directly from the wash bottle being used and place it in a glass sample container labeled "TCE blank."

4.3 *Analysis.* Record the data required on a sheet such as the one shown in Figure 5A–1. Handle each sample container as follows:

4.3.1 *Container No. 1 (Filter).* Transfer the filter from the sample container to a tared glass weighing dish and desiccate for 24 hours in a desiccator containing anhydrous calcium sulfate. Rinse Container No. 1 with a measured amount of TCE and analyze this rinse with the contents of Container No. 2. Weigh the filter to a constant weight. For the purpose of Section 4.3, the term "constant

weight" means a difference of no more than 10 percent or 2 mg (whichever is greater) between two consecutive weighings made 24 hours apart. Report the "final weight" to the nearest 0.1 mg as the average of these two values.

4.3.2 *Container No. 2 (Probe to Filter Holder).* Before adding the rinse from Container No. 1 to Container No. 2, note the level of liquid in the container and confirm on the analysis sheet whether or not leakage occurred during transport. If noticeable leakage occurred, either void the sample or take steps, subject to the approval of the Administrator, to correct the final results.

Measure the liquid in this container either volumetrically to ±1 ml or gravimetrically to ±0.5 g. Check to see if there is any appreciable quantity of condensed water present in the TCE rinse (look for a boundary layer or phase separation). If the volume of condensed water appears larger than 5 ml, separate the oil-TCE fraction from the water fraction using a separatory funnel. Measure the volume of the water phase to the nearest ml; adjust the stack gas moisture content, if necessary (see Sections 6.4 and 6.5). Next, extract the water phase with several 25-ml portions of TCE until, by visual observation, the TCE does not remove any additional organic material. Evaporate the remaining water fraction to dryness at 93°C (200°F), desiccate for 24 hours, and weigh to the nearest 0.1 mg.

Treat the total TCE fraction (including TCE from the filter container rinse and water phase extractions) as follows: Transfer the TCE and oil to a tared beaker and evaporate at ambient temperature and pressure. The evaporation of TCE from the solution may take several days. Do not desiccate the sample until the solution reaches an apparent constant volume or until the odor of TCE is not detected. When it appears that the TCE has evaporated, desiccate the sample and weigh it at 24-hour intervals to obtain a "constant weight" (as defined for Container No. 1 above). The "total weight" for Container No. 2 is the sum of the evaporated particulate weight of the TCE-oil and water phase fractions. Report the results to the nearest 0.1 mg.

4.3.3 *Container No. 3 (Silica Gel).* This step may be conducted in the field. Weigh the spent silica gel (or silica gel plus impinger) to the nearest 0.5 g using a balance.

4.3.4 *"TCE Blank" Container.* Measure TCE in this container either volumetrically or gravimetrically. Transfer the TCE to a tared 250-ml beaker and evaporate to dryness at ambient temperature and pressure. Desiccate for 24 hours and weigh to a constant weight. Report the results to the nearest 0.1 mg.

Note.—In order to facilitate the evaporation of TCE liquid samples, these samples may be dried in a controlled temperature oven at temperatures up to 38°C (100°F) until the liquid is evaporated.

5. *Calibration.*

Calibrate the sampling train components according to the indicated sections of Method 5: Probe Nozzle (5.1), Pitot Tube Assembly (5.2), Metering System (5.3), Probe Heater (5.4), Temperature Gauges (5.5), Leak Check of Metering System (5.6), and Barometer (5.7).

6. *Calculations.*

6.1 *Nomenclature.* Same as in Method 5, Section 6.1, with the following additions:

C_t = TCE blank residue concentration, mg/g.
M_t = Mass of residue of TCE after evaporation, mg.
V_{pc} = Volume of water collected in precollector, ml.
V_t = Volume of TCE blank, ml.
V_{tw} = Volume of TCE used in wash, ml.
W_t = Weight of residue in TCE wash, mg.
P_t = Density of TCE, mg/ml (see label on bottle).

6.2 *Dry Gas Meter Temperature and Orifice Pressure Drop.* Using the data obtained in this test, calculate the average dry gas meter temperature and average orifice pressure drop (see Figure 5–2 of Method 5).

6.3 *Dry Gas Volume.* Using the data from this test, calculate $V_{m(std)}$ by using Equation 5–1 of Method 5. If necessary, adjust the volume for leakages.

6.4 *Volume of Water Vapor.*

$$V_{w(std)} = K_1(V_{lc} + V_{pc}) \quad \text{Eq. 5A–1.}$$

Where:

K_1 = 0.00133 m^3/ml for metric units.
= 0.04707 ft^3/ml for English units.

$$B_{ws} = V_{w(std)}/V_{m(std)} + V_{w(std)} \quad \text{Eq. 5A–2.}$$

Note.—In saturated or water droplet-laden gas streams, two calculations of the moisture content of the stack gas shall be made, one from the impinger and precollector analysis (Equations 5A–1 and 5A–2) and a second from the assumption of saturated conditions. The lower of the two values of moisture content shall be considered correct. The procedure for determining the moisture content based upon assumption of saturated conditions is given in the note of Section 1.2 of Method 4. For the purpose of this method, the average stack gas temperature from Figure 2 may be used to make this determination, provided that the accuracy of the in-stack temperature sensor is within ±1°C (2°F).

6.6 *TCE Blank Concentration.*

$$C_t = M_t/V_tP_t \quad \text{Eq. 5A–3.}$$

6.7 *TCE Wash Blank.*

$$W_t = (C_t)(V_{tw})(P_t) \quad \text{Eq. 5A–4.}$$

6.8 *Total Particulate Weight.* Determine the total particulate catch from the sum of the weights obtained from Containers 1, 2, and 3, less the TCE blank.

6.9 *Particulate Concentration.*

$$C_s = K_2M_n/V_{m(std)} \quad \text{Eq. 5A–5.}$$

Where:

K_2 = 0.001 g/mg.

6.10 *Isokinetic Variation and Acceptable Results.* Method 5, Section 6.11 and 6.12, respectively.

7. *Bibliography*

The bibliography for Reference Method 5A is the same as for Method 5, Section 7.

Method 22—Visual Determination of Fugitive Emissions From Material Processing Sources

1. *Introduction.*

This method involves the visual determination of fugitive emissions, i.e., emissions not emitted directly from a process stack or duct. Fugitive emissions include emissions that (1) escape capture by process equipment exhaust hoods; (2) are emitted during material transfer; (3) are emitted from buildings housing material processing or handling equipment; and (4) are emitted directly from process equipment.

This method determines the amount of time that any visible emissions occur during the observation period, i.e., the accumulated emission time. This method does not require that the opacity of emissions be determined. Since this procedure requires only the determination of whether a visible emission occurs and does not require the determination of opacity levels, observer certification according to the procedures of Reference Test Method 9 are not required. However, it is necessary that the observer is educated on the general procedures for determining the presence of visible emissions. As a minimum, the observer must be trained and knowledgeable regarding the effects on the visibility of emissions caused by background contrast, ambient lighting, observer position relative to lighting, wind, and the presence of uncombined water (condensing water vapor). This training is to be obtained from written materials found in References 7.1 and 7.2 or from the lecture portion of the Method 9 certification course.

2. *Applicability and Principle.*

2.1 *Applicability.* This method applies to the determination of the frequency of fugitive emissions from stationary sources (located indoors or outdoors) when specified as the test method for determining compliance with new source performance standards.

2.2 *Principle.* Fugitive emissions produced during material processing, handling, and transfer operations are visibly determined by an observer without the aid of instruments.

3. *Definitions.*

3.1 *Emission Frequency.* Percentage of time that emissions are visible during the observation period.

3.2 *Emission Time.* Accumulated amount of time that emissions are visible during the observation period.

3.3 *Fugitive Emissions.* Pollutant generated by an affected facility which is not collected by a capture system and is released to the atmosphere.

3.4 *Observation Period.* Accumulated time period during which observations are conducted, not to be less than 6 minutes.

4. *Equipment.*

4.1 *Stopwatches.* Accumulative type with unit divisions of at least 0.5 seconds; two required.

4.2 *Light Meter.* Light meter capable of measuring illuminance in the 50- to 200-lux range; required for indoor observations only.

5. *Procedure.*

5.1 *Position.* Survey the affected facility or building or structure housing the process to be observed and determine the locations of potential emissions. If the affected facility is located inside a building, determine an observation location that is consistent with the requirements of the applicable regulation (i.e., outside observation of emissions escaping the building/structure or inside observation of emissions directly emitted from the affected facility process unit). Then select a position that enables a clear view of the potential emission point(s) of the affected

facility or of the building or structure housing the affected facility, as appropriate for the applicable subpart. A position at least 15 feet, but not more than 0.25 miles, from the emission source is recommended. For outdoor locations, select a position where the sun is not directly in the observer's eyes.

5.2 *Field Records.*

5.2.1 *Outdoor Location.* Record the following information on the field data sheet (Figure 22–1): company name, industry, process unit, observer's name, observer's affiliation, and date. Record also the estimated wind speed, wind direction, and sky condition. Sketch the process unit being observed and note the observer location relative to the source and the sun. Indicate the potential and actual emission points on the sketch.

5.2.2 *Indoor Location.* Record the following information on the field data sheet (Figure 22–2): company name, industry, process unit, observer's name, observer's affiliation, and date. Record as appropriate the type, location, and intensity of lighting on the data sheet. Sketch the process unit being observed and note observer location relative to the source. Indicate the potential and actual fugitive emission points on the sketch.

5.3 *Indoor Lighting Requirements.* For indoor locations, use a light meter to measure the level of illumination at a location as close to the emission source(s) as is feasible. An illumination of greater than 100 lux (10 foot candles) is considered necessary for proper application of this method.

5.4 *Observations.* Record the clock time when observations begin. Use one stopwatch to monitor the duration of the observation period; start this stopwatch when the observation period begins. If the observation period is divided into two or more segments by process shutdowns or observer rest breaks, stop the stopwatch when a break begins and restart it without resetting when the break ends. Stop the stopwatch at the end of the observation period. The accumulated time indicated by this stopwatch is the duration of the observation period. When the observation period is completed, record the clock time.

During the observation period, continously watch the emission source. Upon observing an emission (condensed water vapor is not considered an emission), start the second accumulative stopwatch; stop the watch when the emission stops. Continue this procedure for the entire observation period. The accumulated elapsed time on this stopwatch is the total time emissions were visible during the observation period, i.e., the emission time.

5.4.1 *Observation Period.* Choose an observation period of sufficient length to meet the requirements for determining compliance with the emission regulation in the applicable subpart. When the length of the observation period is specifically stated in the applicable subpart, it may not be necessary to observe the source for this entire period if the emission time required to indicate noncompliance (based on the specified observation period) is observed in a shorter time period. In other words, if the regulation prohibits emissions for more than 6 minutes in any hour, then observations may (optional) be stopped after an emission time of 6 minutes is exceeded. Similarly, when the regulation is expressed as an emission frequency and the regulation prohibits emissions for greater than 10 percent of the time in any hour, then observations may (optional) be terminated after 6 minutes of emissions are observed since 6 minutes is 10 percent of an hour. In any case, the observation period shall not be less than 6 minutes in duration. In some cases, the process operation may be intermittent or cyclic. In such cases, it may be convenient for the observation period to coincide with the length of the process cycle.

5.4.2 *Observer Rest Breaks.* Do not observe emissions continuously for a period of more than 15 to 20 minutes without taking a rest break. For sources requiring observation periods of greater than 20 minutes, the observer shall take a break of not less than 5 minutes and not more than 10 minutes after every 15 to 20 minutes of observation. If continuous observations are desired for extended time periods, two observers can alternate between making observations and taking breaks.

5.4.3 *Visual Interference.* Occasionally, fugitive emissions from sources other than the affected facility (e.g., road dust) may prevent a clear view of the affected facility. This may particularly be a problem during periods of high wind. If the view of the potential emission points is obscured to such a degree that the observer questions the validity of continuing observations, then the observations are terminated, and the observer clearly notes this fact on the data form.

5.5 *Recording Observations.* Record the accumulated time of the observation period on the data sheet as the observation period duration. Record the accumulated time emissions were observed on the data sheet as the emission time. Record the clock time the observation period began and ended, as well as the clock time any observer breaks began and ended.

6. *Calculations.*

If the applicable subpart requires that the emission rate be expressed as an emission frequency (in percent), determine this value as follows: Divide the accumulated emission time (in seconds) by the duration of the observation period (in seconds) or by any minimum observation period required in the applicable subpart, if the acutal observation period is less than the required period and multiply this quotient by 100.

7. *References.*

7.1 Missan, Robert and Arnold Stein. Guidelines for Evaluation of Visible Emissions Certification, Field Procedures, Legal Aspects, and Background Material. EPA Publication No. EPA–340/1–75–007. April 1975

7.2 Wohlschlegel, P. and D. E. Wagoner. Guideline for Development of a Quality Assurance Program: Volume IX—Visual Determination of Opacity Emissions From Stationary Sources. EPA Publication No. EPA–650/4–74–005–i. November 1975.

[FR Doc. 82–21364 Filed 8–5–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 81

[A–4–FRL 2180–2 (GA–001)]

Designation of Areas for Air Quality Planning Purposes; Georgia: Redesignation of Rossville Particulate Area

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA hereby grants a request made by Georgia that the total suspended particulate attainment status of a portion of the northern part of Walker County which includes Rossville, Georgia, be changed from nonattainment to attainment.

EFFECTIVE DATE: This action will be effective on October 5, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Gilbert, Air Management Branch, EPA Region IV at the above address and telephone number 404/881–3286 or FTS 257–3286.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962 at 8981), the Administrator designated a portion of the northern part of Walker County, Georgia, which includes Rossville, nonattainment for total suspended particulate. On April 29, 1982, the Georgia Environmental Protection Division (GEPD) submitted 24 consecutive months of air quality data showing that the national ambient air quality standards (NAAQS) for total suspended particulate had not been violated. There were no violations of the 150 $\mu g/m^3$ secondary NAAQS. The geometric means for March 1980 through February 1981 and March 1981 through February 1982 were 72 and 54 $\mu g/m^3$ respectively. Both geometric means are below the 75 $\mu g/m^3$ NAAQS. Since there are two years of ambient air quality data showing attainment, EPA is changing the designation to attainment.

The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. Section 605(b), the Administrator has certified that area

redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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 October 4, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

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

List of Subjects in 40 CFR Part 81

Air pollution contol, National parks, Wilderness areas.

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

Dated: July 29, 1982.

Anne M. Gorsuch,

Administrator.

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

Subpart C—Section 107 Attainment Status Designations

§ 81.311 [Amended]

In § 81.311 the attainment status designation table "Georgia—TSP" is amended by removing the entry for "That portion of the northern part of Walker County which includes Rossville".

[FR Doc. 82-21367 Filed 8-5-82; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-4

[FPMR Amdt. A-34]

Patents; Licensing of Federally Owned Inventions

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation provides policies and procedures applicable to the licensing of inventions owned by the Federal Government. The regulation implements Pub. L. 96-517. The Patent Subcommittee of the Interagency Procurement Policy Committee developed the regulation, which does not deviate from Pub. L. 96-517. The intended effect is to provide a uniform basis for the licensing of federally owned inventions by agencies in the interest of achieving maximum practicable exploitation of inventions in the national interest.

EFFECTIVE DATE: This regulation is effective September 1, 1982, but may be observed earlier, except § 101-4.104-1(b)(6) which contains information collection requirements which are under review at OMB.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate (VR), Office of Acquisition Policy, 202-523-4755.

SUPPLEMENTARY INFORMATION: GSA published FPMR Temporary Regulation A-20 (46 FR 39593, August 4, 1981) to implement Pub. L. 96-517. Interested persons were invited to submit comments. Comments that were received were considered in connection with the development of a permanent replacement for FPMR Temporary Regulation A-20, which is canceled and removed from the appendix at the end of Subchapter A in 41 CFR Chapter 101. The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511) the reporting provisions that are included in this regulation will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation.

OMB Control No.: Approval by OMB is pending.

List of Subjects in 41 CFR Part 101-4

Government property management, Inventions and patents.

PART 101-4—PATENTS

The table of contents for Part 101-4, Patents, is amended by revising all entries as follows:

Subpart 101-4.1—Licensing of Federally Owned Inventions

101-4.100 Scope of subpart.
101-4.101 Policy and objective.
101-4.102 Definitions.
101-4.103 Authority to grant licenses.
101-4.104 Restrictions, conditions, and types of licenses.
101-4.104-1 All licenses granted under this subpart.
101-4.104-2 Nonexclusive licenses.
101-4.104-3 Exclusive and partially exclusive licenses.
101-4.105 Procedures.
101-4.105-1 Application for a license.
101-4.105-2 Notice to Attorney General.
101-4.105-3 Modification and termination of licenses.
101-4.105-4 Appeals.
101-4.105-5 Protection and administration of inventions.
101-4.105-6 Transfer of custody.
101-4.105-7 Confidentiality of information.

Subpart 101-4.1 is revised to read as follows:

Supart 101-4.1—Licensing of Federally Owned Inventions

§ 101-4.100 Scope of subpart.

This subpart prescribes the terms, conditions, and procedures upon which a federally owned invention, other than an invention in the custody of the Tennessee Val ley Authority, may be licensed. This subpart does not affect licenses which (a) were in effect prior to July 1, 1981; (b) may exist at the time of the Government's acquisition of title to the invention, including those resulting from the allocation of rights to inventions made under Government research and development contracts; (c) are the result of an authorized exchange of rights in the settlement of patent disputes; or (d) are otherwise authorized by law or treaty.

§ 101-4.101 Policy and objective.

It is the policy and objective of this subpart to use the patent system to promote the utilization of inventions arising from federally supported research or development.

§ 101-4.102 Definitions.

(a) "Federally owned invention" means an invention, plant, or design which is covered by a patent, or patent application in the United States, or a patent, patent application, plant variety protection, or other form of protection, in a foreign country, title to which has been assigned to or otherwise vested in the United States Government.

(b) "Federal agency" means an executive department, military department, Government corporation, or independent establishment, except the

Tennessee Valley Authority, which has custody of a federally owned invention.

(c) "Small business firm" means a small business concern as defined in section 2 of Pub. L. 85–536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration.

(d) "Practical application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

(e) "United States" means the United States of America, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 101–4.103 Authority to grant licenses.

Federally owned inventions shall be made available for licensing as deemed appropriate in the public interest. Federal agencies having custody of federally owned inventions may grant nonexclusive, partially exclusive, or exclusive licenses thereto under this subpart.

§ 101–4.104 Restrictions, conditions, and types of licenses.

§ 101–4.104–1 All licenses granted under this subpart.

(a) *Restrictions.* (1) A license may be granted only if the applicant has supplied the Federal agency with a satisfactory plan for development or marketing of the invention, or both, and with information about the applicant's capability to fulfill the plan.

(2) A license granting rights to use or sell under a federally owned invention in the United States shall normally be granted only to a licensee who agrees that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States.

(b) *Conditions.* Licenses shall contain such terms and conditions as the Federal agency determines are appropriate for the protection of the interests of the Federal Government and the public and are not in conflict with law or this subpart. The following terms and conditions apply to any license:

(1) The duration of the license shall be for a period specified in the license agreement, unless sooner terminated in accordance with this subpart.

(2) The license may be granted for all or less than all fields of use of the invention or in specified geographical areas, or both.

(3) The license may extend to subsidiaries of the licensee or other parties if provided for in the license but shall be nonassignable without approval of the Federal agency, except to the successor of that part of the licensee's business to which the invention pertains.

(4) The licensee may provide the license the right to grant sublicenses under the license, subject to the approval of the Federal agency. Each sublicense shall make reference to the license, including the rights retained by the Government, and a copy of such sublicense shall be furnished to the Federal agency.

(5) The license shall require the licensee to carry out the plan for development or marketing of the invention, or both, to bring the invention to practical application within a period specified in the license, and to continue to make the benefits of the invention reasonably accessible to the public.

(6) The license shall require the licensee to report periodically on the utilization or efforts at obtaining utilization that are being made by the licensee, with particular reference to the plan submitted.

(7) Licenses may be royalty-free or for royalties or other consideration.

(8) Where an agreement is obtained pursuant to § 101–4.104–1(a)(2) that any products embodying the invention or produced through use of the invention will be manufactured substantially in the United States, the license shall recite such agreement.

(9) The license shall provide for the right of the Federal agency to terminate the license, in whole or in part, if:

(i) The Federal agency determines that the licensee is not executing the plan submitted with its request for a license and the licensee cannot otherwise demonstrate to the satisfaction of the Federal agency that it has taken or can be expected to take within a reasonable time effective steps to achieve practical application of the invention;

(ii) The Federal agency determines that such action is necessary to meet requirements for public use specified by Federal regulations issued after the date of the license and such requirements are not reasonably satisfied by the licensee;

(iii) The licensee has willfully made a false statement of or willfully omitted a material fact in the license application or in any report required by the license agreement; or

(iv) The licensee commits a substantial breach of a covenant or agreement contained in the license.

(10) The license may be modified or terminated, consistent with this subpart, upon mutual agreement of the Federal agency and the licensee.

(11) Nothing relating to the grant of a license, nor the grant itself, shall be construed to confer upon any person any immunity from or defenses under the antitrust laws or from a charge of patent misuse, and the acquisition and use of rights pursuant to this subpart shall not be immunized from the operation of state or Federal law by reason of the source of the grant.

§ 101–4.104–2 Nonexclusive licenses.

(a) *Availability of licenses.* Nonexclusive licenses may be granted under federally owned inventions without publication of availability or notice of a prospective license.

(b) *Conditions.* In addition to the provisions of § 101–4.104–1, the nonexclusive license may also provide that, after termination of a period specified in the license agreement, the Federal agency may restrict the license to the fields of use or geographic areas, or both, in which the licensee has brought the invention to practical application and continues to make the benefits of the invention reasonably accessible to the public. However, such restriction shall be made only in order to grant an exclusive or partially exclusive license in accordance with this subpart.

§ 101–4.104–3 Exclusive and partially exclusive licenses.

(a) *Domestic licenses.*—(1) *Availability of licenses.* Exclusive or partially exclusive licenses may be granted on federally owned inventions (a) Three months after notice of the invention's availability has been announced in the **Federal Register**; or (b) without such notice where the Federal agency determines that expeditious granting of such a license will best serve the interest of the Federal Government and the public; and (c) in either situation, specified in (a) or (b) only if:

(i) Notice of a prospective license, identifying the invention and the prospective licensee, has been published in the **Federal Register**, providing opportunity for filing written objections within a 60-day period;

(ii) After expiration of the period in § 101–4.104–3(a)(1)(c)(i) and consideration of any written objections received during the period, the Federal agency has determined that:

(A) The interests of the Federal Government and the public will best be served by the proposed license, in view of the applicant's intentions, plans, and ability to bring the invention to practical

application or otherwise promote the invention's utilization by the public;

(B) The desired practical application has not been achieved, or is not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on the invention;

(C) Exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the investment of risk capital and expenditures to bring the invention to practical application or otherwise promote the invention's utilization by the public; and

(D) The proposed terms and scope of exclusivity are not greater than reasonably necessary to provide the incentive for bringing the invention to practical application or otherwise promote the invention's utilization by the public;

(iii) The Federal agency has not determined that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with the antitrust laws; and

(iv) The Federal agency has given first preference to any small business firms submitting plans that are determined by the agency to be within the capabilities of the firms and as equally likely, if executed, to bring the invention to practical application as any plans submitted by applicants that are not small business firms.

(2) *Conditions.* In addition to the provisions of § 101–4.104–1, the following terms and conditions apply to domestic exclusive and partially exclusive licenses:

(i) The license shall be subject to the irrevocable, royalty-free right of the Government of the United States to practice and have practiced the invention on behalf of the United States and on behalf of any foreign government or international organization pursuant to any existing or future treaty or agreement with the United States.

(ii) The license shall reserve to the Federal agency the right to require the licensee to grant sublicenses to responsible applicants, on reasonable terms, when necessary to fulfill health or safety needs.

(iii) The license shall be subject to any licenses in force at the time of the grant of the exclusive or partially exclusive license.

(iv) The license may grant the licensee the right of enforcement of the licensed patent pursuant to the provisions of Chapter 29 of Title 35, United States Code, or other statutes, as determined appropriate in the public interest.

(b) *Foreign licenses.*—(1) *Availability of licenses.* Exclusive or partially exclusive licenses may be granted on a federally owned invention covered by a foreign patent, patent application, or other form of protection, provided that:

(i) Notice of a prospective license, identifying the invention and prospective licensee, has been published in the **Federal Register**, providing opportunity for filing written objections within a 60-day period and following consideration of such objections;

(ii) The agency has considered whether the interests of the Federal Government or United States industry in foreign commerce will be enhanced; and

(iii) The Federal agency has not determined that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the United States in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with antitrust laws.

(2) *Conditions.* In addition to the provisions of § 101–4.104–1, the following terms and conditions apply to foreign exclusive and partially exclusive licenses:

(i) The license shall be subject to the irrevocable, royalty-free right of the Government of the United States to practice and have practiced the invention on behalf of the United States and on behalf of any foreign government or international organization pursuant to any existing or future treaty or agreement with the United States.

(ii) The license shall be subject to any licenses in force at the time of the grant of the exclusive or partially exclusive license.

(iii) The license may grant the licensee the right to take any suitable and necessary actions to protect the licensed property, on behalf of the Federal Government.

(c) *Record of determination.* Federal agencies shall maintain a record of determinations to grant exclusive or partially exclusive licenses.

§ 101–4.105 Procedures.

§ 101–4.105–1 Application for a license.

An application for a license should be addressed to the Federal agency having custody of the invention and shall normally include:

(a) Identification of the invention for which the license is desired including the patent application serial number or patent number, title, and date, if known;

(b) Identification of the type of license for which the application is submitted;

(c) Name and address of the person, company, or organization applying for the license and the citizenship or place of incorporation of the applicant;

(d) Name, address, and telephone number of the representative of the applicant to whom correspondence should be sent;

(e) Nature and type of applicant's business, identifying products or services which the applicant has successfully commercialized, and approximate number of applicant's employees;

(f) Source of information concerning the availability of a license on the invention;

(g) A statement indicating whether the applicant is a small business firm as defined in § 101–4.102(c);

(h) A detailed description of applicant's plan for development or marketing of the invention, or both, which should include:

(i) A statement of the time, nature and amount of anticipated investment of capital and other resources which applicant believes will be required to bring the invention to practical application;

(ii) A statement as to applicant's capability and intention to fulfill the plan, including information regarding manufacturing, marketing, financial, and technical resources;

(iii) A statement of the fields of use for which applicant intends to practice the invention; and

(iv) A statement of the geographic areas in which applicant intends to manufacture any products embodying the invention and geographic areas where applicant intends to use or sell the invention, or both;

(i) Identification of licenses previously granted to applicant under federally owned inventions;

(j) A statement containing applicant's best knowledge of the extent to which the invention is being practiced by private industry or Government, or both,

or is otherwise available commercially; and

(k) Any other information which applicant believes will support a determination to grant the license to applicant.

§ 101-4.105-2 Notice to Attorney General.

A copy of the notice provided for in §§ 101-4.104-3(a)(1)(c)(i) and 101-4.104-3(b)(1)(i) will be sent to the Attorney General.

§ 101-4.105-3 Modification and termination of licenses.

Before modifying or terminating a license, other than by mutual agreement, the Federal agency shall furnish the licensee and any sublicensee of record a written notice of intention to modify or terminate the license, and the licensee and any sublicensee shall be allowed 30 days after such notice to remedy any breach of the license or show cause why the license shall not be modified or terminated.

§ 101-4.105-4 Appeals.

(a) In accordance with procedures prescribed by the Federal agency, the following parties may appeal to the agency head or designee any decision or determination concerning the grant, denial, interpretation, modification, or termination of a license:

(a) A person whose application for a license has been denied;

(b) A licensee whose license has been modified or terminated, in whole or in part; or

(c) A person who timely filed a written objection in response to the notice required by §§ 101-4.104-3(a)(1)(c)(i) or 101-4.104-3(b)(1)(i) and who can demonstrate to the satisfaction of the Federal agency that such person may be damaged by the agency action.

§ 101-4.105-5 Protection and administration of inventions.

A Federal agency may take any suitable and necessary steps to protect and administer rights to federally owned inventions, either directly or through contract.

§ 101-4.105-6 Transfer of custody.

A Federal agency having custody of a federally owned invention may transfer custody and administration, in whole or in part, to another Federal agency, of the right, title, or interest in such invention.

§ 101-4.105-7 Confidentiality of information.

Title 35, United States Code, section 209, provides that any plan submitted pursuant to § 101-4.105-1(h) and any report required by § 101-4.104-1(b)(6) may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of Title 5 of the United States Code.

(94 Stat. 3024, 35 U.S.C. § 208; Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: July 6, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-21266 Filed 8-5-82; 8:45 am]

BILLING CODE 6820-01-M

NATIONAL SCIENCE FOUNDATION

45 CFR Parts 600, 680, 681, 682, 683, and 684

Conflict of Interests; Correction

AGENCY: National Science Foundation.

ACTION: Final rule; correction.

SUMMARY: This document makes technical corrections on a final rule document relating to conflict of interests published on July 26, 1982, 47 FR 32130.

FOR FURTHER INFORMATION CONTACT: General Counsel, National Science Foundation, 1800 G Street, NW., Washington, DC 20550, Attention: Harriet E. Tucker (202/357-7483).

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 82-20067 appearing on page 32130 in the issue for July 26, 1982:

1. On page 23131, column 1, paragraph 1 appearing under the heading for Part 600 which reads "§ 600.735 [removed]; 1. 45 CFR 600.735 is removed;" *is corrected to read,* "Part 600; 1. 45 CFR 600 is removed;" and

2. On page 32145 column 2, line 1, remove the words "or any other Federal award."

Dated: July 28, 1982.

Donald N. Langenberg,

Deputy Director, National Science Foundation.

[FR Doc. 82-21365 Filed 8-5-82; 8:45 am]

BILLING CODE 7555-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Document No. 2727-139]

50 CFR Parts 611 and 657

Foreign Fishing and Atlantic Butterfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of butterfish available to foreign nations.

SUMMARY: This notice announces that NOAA has made 2,582 metric tons of butterfish available to foreign nations during the 1982-83 fishing year. This amount is in addition to the total allowable level of foreign fishing (TALFF) available for this fishing year.

FOR FURTHER INFORMATION CONTACT: Donald J. Leedy, 202-634-7449.

SUPPLEMENTARY INFORMATION: Under section 201(d) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Mid-Atlantic Fishery Management Council certified an annual fishing level (AFL) of 759 metric tons (mt) of butterfish for the 1981-82 fishing year (April 1, 1981 through March 30, 1982). NOAA accepted the certification and made an additional 659 mt available before the end of the fishing year for incidental catch purposes (47 FR 8366, February 26, 1982). The difference between the total allowable level of foreign fishing of 4,000 mt and the amount made available (759 mt + 659 mt) was deferred until the 1982-83 fishing year. The deferred amount, 2,582 mt, has been made available to the Department of State for allocation to foreign vessels. This action is required by section 201(d)(4) of the Magnuson Act.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

50 CFR Part 657

Fish, Fisheries, Fishing, Reporting requirements.

(16 U.S.C. 1801 et seq.)

Dated: July 30, 1982.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 82-21303 Filed 8-5-82; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 152
Friday, August 6, 1982

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 530

Pay Rates and Systems (General); Effect of General Pay Increases on Special Salary Rates

Note.—This document originally appeared in the **Federal Register** of Wednesday, Aug. 4, 1982. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Office of Personnel Management.

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management is proposing a revision to the regulation that determines the relationship of a special rate schedule to the pay schedule of the pay system for which the special rate schedule is authorized. Section 303 of Executive Order 11721 requires that each special schedule be reviewed at least annually and adjustments made as warranted by then current labor market and staffing factors. OPM's regulation provides that, pending the annual review, special rate schedules will be automatically aligned when the regular pay schedule is adjusted. Beginning this year, however, OPM will make all adjustments to special rates effective on the date of the general pay adjustment in October; consequently, it is no longer necessary to align the special rates with the new regular schedule and OMP proposes to revise the regulation governing this alignment.

DATE: Comments must be received on or before September 3, 1982.

ADDRESS: Send or deliver written comments to: U.S. Office of Personnel Management, Compensation Group, Allowances and Special Rates Division, Room 3545, 1900 E Street N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Richard J. Carney, Chief, Allowances and Special Rates Division, (202) 632–8742.

SUPPLEMENTARY INFORMATION: Executive Order 11721 (May 23, 1973) authorizes the Director of the Office of Personnel Management to prescribe the regulations necessary to administer section 5303 of subchapter I of chapter 53 of title 5, United States Code, governing the establishment of special salary rates above the regular pay schedules when private sector pay competition is significantly handicapping the Government's recruitment or retention of well-qualified individuals.

Section 530.307(a) or 5 CFR currently requires that each special schedule be automatically aligned with one or more rates of a revised regular rate schedule that results from a general pay increase. Under the proposed change, each special schedule will be reviewed annually prior to the October general pay adjustment and appropriate revisions will be made in the special salary rates at the time of the October adjustment. Since special rates are set in response to non-Federal pay competition, the special alignment is neither necessary nor appropriate.

OPM is seeking comments on the elimination of the automatic alignment provisions of the current regulations.

Comment Period for Posposed Rulemaking

The Director finds that because of the program benefits to be gained by effecting this change prior to this October's adjustment of special salary rate schedules, good cause exists for setting the comment period on this proposed rulemaking at 30 days from the date of publication.

E.O.12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it applies only to pay systems affecting Federal employees.

List of Subjects in 5 CFR Part 530

Government employees, Wages.

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

PART 530—PAY RATES AND SYSTEMS (GENERAL)

Accordingly, OPM proposes to revise §530.307(a) of 5 CFR to read as follows:

§ 530.307 Effect of general pay increase on special salary rate schedules.

(a) A general revision of the regular pay schedule of the pay system for which special salary rates are authorized under section 5303 to title 5, United States Code, will have no effect on special salary rate schedules. Special salary rate schedules will be reviewed at least annually and adjusted, if warranted, by the Office of Personnel Management.

* * * * *

(E.O. 11721)

[FR Doc. 82–21130 Filed 8–3–82; 8:45 am]
BILLING CODE 6325–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 523, 545, and 563

[No. 82–506]

Liquidity Amendments

Dated: July 29, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") proposes to amend its regulations governing liquidity requirements for members of the Federal Home Loan Bank System ("Bank System") by qualifying as liquid assests debt securities hedged with forward commitments obtained from, or debt securities subject to repurchase agreements with, members of the Association of Primary Dealers in United States Government Securities or banks whose accounts are insured by the Federal Deposit Insurance Corporation, debt securities directly hedged with a short financial futures position, and debt securities that provide the holder with a right to redeem at par value, regardless of the stated maturities of such securities. The Board also requests comment on whether to qualify as liquid assets debt

securities that would so qualify but for their maturities if the securities are held subject to exchange-traded options giving the holder the right to sell the securities at a specified value within a specified time. Finally, the Board proposes to amend its regulations limiting investments in commercial banks to reflect the proposed liquidity amendments and to extend coverage of the limitation to investments in institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation. These amendments would grant members of the Bank System additional methods for maintaining liquidity consistent with the purposes underlying the Board's liquidity requirements.

DATE: Comments must be received by: September 7, 1982.

ADDRESS: Send comments to Director, Information Services, Federal Home Loan Bank Board, 1700 G Street, NW., Washington D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Michael S. Joseph ((202) 377–6994), Office of Examinations and Supervision, or Kenneth F. Hall ((202) 377–6466) or Anne-Christine Massullo ((202) 377–7047), Office of General Counsel, at the above address.

SUPPLEMENTARY INFORMATION:

Background

Section 5A of the Federal Home Loan Bank Act, as amended ("Bank Act") (12 U.S.C. 1425(a)), establishes general liquidity requirements for members of the Federal Home Loan Bank System. The Bank Act's requirements and the Board's regulations implementing the Act are intended to ensure that liquid assets are available to meet demands on institutions for funds. To maintain marketability of qualifying assets at or close to their par values, the Board's regulations have limited the maturities of qualifying debt securities to protect against the wide fluctuations in the market that may occur over time. Thus, the regulations define liquid assets to include obligations of the United States and its agencies maturing in five years or less, certain general obligations of state and local municipalities maturing in two years or less, and rated corporate debt obligations maturing in three years or less. 12 CFR 523.10(g) (2), (3), (6), (9) (1981). Eligible short-term liquid assets include the same types of obligations but provide for shorter maturity periods. 12 CFR 523.10(h).

It would appear appropriate, however, to qualify as liquid assets debt securities that would qualify but for their maturities if the debt securities are combined with investment vehicles that effectively shorten the securities' maturities to the limits established by § 523.10. Therefore, the Board proposes to amend § 523.10 to qualify debt securities with excessive maturities if they are combined with any of the four types of investment vehicles described below.

Forward Commitments

One manner in which an association could effectively shorten the maturity of a long-term debt security would be to obtain a forward commitment on the security. Specifically, if an association, at the time it purchases a debt security that would qualify as a liquid asset but for its maturity, obtains a firm commitment from a third party to purchase the security at a specified price within a time period that would qualify the security as a liquid asset, the debt security can be insulated from fluctuations in market rates regardless of its maturity.

However, unlike the case with an option or futures contract where the obligation to purchase would lie with an organized exchange, hedging a debt security with a forward commitment would entail the risk that the individual or corporation providing the commitment might fail to fulfill the obligation represented by the commitment. To minimize this risk, the proposed regulation would provide that the forward commitment must be made by a member of the Association of Primary Dealers in U.S. Government Securities or by a commercial bank insured by the Federal Deposit Insurance Corporation ("FDIC").

In connection with the proposed authorization to count as liquidity debt securities hedged with firm forward commitments, the Board proposes to amend § 563.9–6 of its regulations (12 CFR 563.9–6 (1981)), which limits the amount of investments by an institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation ("insured institution") in time and savings deposits of an FDIC-insured bank, to include debt securities owned by the insured institution and hedged with forward commitments issued by the bank or by a member of the Association of Primary Dealers in U.S. Government Securities. The rationale for limiting investments in a bank as well as for limiting an association's loans to a single borrower (12 CFR 563.9–3 (1981))—*i.e.*, to prevent an excessive commitment of an association's funds to a single source—appears to apply equally well to an association's reliance on commitments issued by a bank or by a government securities dealer. The Board requests comment as to whether the limitation in § 563.9–6 should be extended to debt securities hedged by forward commitments or subject to repurchase agreements issued or entered by any individual or corporation.

The proposed amendments would also make three further changes to § 563.9–6. First, the investment limitation would be amended to be the greater of (1) one hundred thousand dollars or (2) the lesser of (i) one-quarter of one percent of the deposits of the insured bank or insured institution in which the investment is made or (ii) the greater of the investing institution's net worth or one percent of such institution's assets. The addition of the one-percent-of-assets factor would ensure that an insured institution with declining net worth would retain the ability to make a reasonable investment above one hundred thousand dollars in an insured institution or insured bank.

Second, in view of the Board's recent authorization of investments by federally chartered savings and loans in time and savings deposits of insured institutions (47 FR 17468 (1982)) and of the fact that many state-chartered institutions possess similar authority, the Board proposes to extend the limitation in § 563.9–6 to investments in an insured institution. Finally, the proposed amendments would make clear that the term "time and savings deposits," as used in § 563.9–6, applies also to repurchase agreements held with an insured bank or insured institution and to loans of unsecured day(s) funds to an insured bank or insured institution.

Debt Securities Hedged With Short Futures Positions

Another investment vehicle that could effectively shorten the maturity of a long-term debt security is what is commonly referred to as a "cash and carry" transaction. This transaction involves purchasing a long-term fixed-rate debt security and simultaneously hedging that purchase by taking a short futures position in that security (*i.e.*, entering into a contract to make delivery of the security at a specified time). Any decrease in the value of the long-term security because of increases in market rates generally is offset by an increase in the value of the futures contract. Thus, even if the stated maturity exceeds five years, taking the short position ensures that the purchaser is able to liquidate the security over the short term at or above a specified value.

Because this type of transaction would result in the member holding a

combination of securities that is functionally equivalent to a short-term asset, the Board proposes to include as liquid assets and short-term liquid assets debt securities that would qualify under paragraphs (g) and (h) of § 523.10 but for their maturities if they are directly hedged with financial futures contracts. Under the proposal, in order for a long-term debt security to qualify as a liquid asset, the contract to make delivery (the hedge) would have to be purchased simultaneously with the security and maintained during the time the maturity of the security was in excess of that permitted for liquid assets. If the futures contract is offset (*i.e.*, the obligation to make delivery of the securities is cancelled by contracting to take delivery of securities of the same type for the same delivery month), the long-term security would cease to qualify as a liquid asset unless the association entered into a new futures contract to make delivery of the security.

In addition, the regulation would impose two requirements to ensure that the security is directly hedged. First, the security being hedged must be of deliverable grade pursuant to the specifications of the futures contract. This ensures that the association may deliver the security to meet its obligations under the futures contract and would not be required to purchase another security. Second, the term of the contract could not exceed the maximum maturity that would have been necessary for the debt security hedged by the futures contract to qualify as a liquid asset or short-term liquid asset. The purpose of this requirement is to ensure that the exposure to fluctuations in market rates of an association investing in hedged long-term debt securities would be no greater than if the association invested in debt securities that currently qualify as liquid or short-term liquid assets.

Debt Securities Providing a Right to Redeem

The Board also proposes to amend its regulations to provide that an obligation that would qualify but for its maturity as a liquid asset under paragraphs (g) (2), (3), (6) or (9) of § 523.10 or as a short-term liquid asset under paragraphs (h)(2), (5) or (7) will so qualify regardless of its maturity if it provides the holder with the right to redeem the obligation with the issuer of the obligation at the obligation's stated or par value. Such obligations retain the value they possessed at the time of purchase because of this feature. To ensure that the member's interest-rate risk exposure under such an instrument would not be excessive, the proposed amendment would provide that the period of time within which the right to redeem may be exercised may not exceed the maximum maturity necessary for the obligation to qualify as a liquid asset or short-term liquid asset.

Debt Securities Hedged with Options

An alternative manner in which an association could be authorized to count long-term debt securities as liquid and short-term liquid assets would be for the member to obtain exchange-traded options to sell the securities. Although organized exchanges in options have not yet opened, and federal associations currently are not authorized to trade in financial options, the Board has proposed to authorize trading in options (*see* FHLBB Res. No. 82-135; 47 FR 9472 (March 5, 1982)).

Matched with a properly structured option, a debt security can be insulated from fluctuations in market rates regardless of its maturity. Specifically, if a member, at the time it purchases a debt security that would qualify as a liquid or short-term liquid asset but for its maturity, obtains an option to sell the security (a "long put option") within a time period that would qualify the security as a liquid asset, the member has effectively shortened the maturity of the security. Recognizing that the price to be paid for the debt security may be less than the stated or par value of the security, it would be appropriate to count toward liquidity the lesser of the par value of the security or the agreed-upon sale price. It would also appear appropriate, in determining the amount that counts toward liquidity, to subtract the cost of the long put option if not paid when the option is obtained. The Board requests comment on all aspects of counting towards liquidity securities subject to options.

Clarifying Amendments

The Board also proposes to make two clarifying amendments to its regulations. First, paragraph (e) of § 523.10 would be amended to clarify that short-term borrowings include that portion of the principal amount of a borrowing that has a remaining term to maturity exceeding one year, if it becomes contractually due during the current year. This amendment would codify an interpretation issued by the Board's Office of Examinations and Supervision and currently published in T Memorandum 34-4, (May 1, 1973).

Second, § 545.9, regarding permissible investments by federally-chartered savings and loans, would be amended to make clear that the authority provided by paragraph (a) of that section does not exempt an association from the limitations contained in § 545.9-4 relating to investments in corporate debt obligations and commercial paper. This amendment would codify existing interpretations of §§ 545.9 and 545.9-4 issued by the Board's Office of General Counsel.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354; 5 U.S.C. 601 *et seq.*), the Board certifies that the proposed amendments, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Part 523

Federal home loan banks, Savings and loan associations.

12 CFR Part 545

Savings and loan associations.

12 CFR Part 563

Savings and loan associations, Commercial banks.

The Board will accept comments on this proposal for a period of 30 days. In the Board's view, a comment period of 30 days is more appropriate than 60 days because this proposal would ease the liquidity problems of the savings and loan industry by permitting institutions to count additional appropriate assets as liquid and short-term liquid assets.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 523 of Subchapter B, Part 545 of Subchapter C, and Part 563 of Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 523—MEMBERS OF BANKS

Liquidity

1. Amend § 523.10 by revising paragraph (e) and by adding new paragraphs (g)(11) and (h)(8), to read as follows:

§ 523.10 Definitions for purposes of this section, § 523.11 and § 523.12.

* * * * *

(e) *Short-term borrowings.* All borrowings, or any portion of the principal amount thereof, payable on demand or in one year or less, except tax and loan accounts or note accounts.

(g) *Liquid assets.* * * *

* * * * *

(11) Any obligation that would qualify as a liquid asset under paragraphs (g)(2),

(3), (6) or (9) of this section but for its maturity: *Provided,* That the obligation: (i) has been hedged since the time of purchase with a firm forward commitment to purchase the obligation entered by a member of the Association of Primary Dealers in United States Government Securities or by an insured bank, as defined in § 523.10(b) of this Chapter, and the commitment must be fulfilled within a period of time that does not exceed the maximum maturity necessary for the obligation to qualify as a liquid asset under this paragraph (g); (ii) has been hedged since the time of purchase with a financial futures contract under which the obligation is of deliverable grade and the delivery date is at or before the maximum maturity necessary for the obligation (the deliverable security) to qualify as a liquid asset under this paragraph (g); or (iii) provides that the holder has the right to redeem the obligation with the issuer of the obligation at the stated or par value and that this right may be exercised within a period of time that does not exceed the maximum maturity necessary for the obligation to qualify as a liquid asset under this paragraph (g).

(h) *Short-term liquid assets.* * * *

* * * * *

(8) Any obligation that would qualify as a short-term liquid asset under paragraphs (h)(2), (5) or (7) of this section but for its maturity: *Provided,* That such obligation: (i) has been hedged since the time of purchase by a firm forward commitment to purchase the obligation entered by a member of the Association of Primary Dealers in United States Government Securities or by an insured bank, as defined in § 523.10(b) of this Chapter, and the commitment must be fulfilled within a period of time that does not exceed the maximum maturity necessary for the obligation to qualify as a short-term liquid asset under this paragraph (h); (ii) has been hedged since the time of purchase with a financial futures contract under which the obligation is of deliverable grade and the delivery date is at or before the maximum maturity necessary for the obligation (the deliverable security) to qualify as a short-term liquid asset under this paragraph (h); or (iii) provides that the holder has the right to redeem the obligation with the issuer of the obligation at the stated or par value and that this right may be exercised within a period of time that does not exceed the maximum maturity necessary for the obligation to qualify as a short-term liquid asset under this paragraph (h).

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

2. Amend § 545.9 by revising paragraph (a), to read as follows:

§ 545.9 Securities and other investments.

A Federal association may invest in:

(a) Assets that qualify as liquid assets, as defined in § 523.10(g) of this Chapter, and assets, other than time deposits and bankers' acceptances, that would so qualify except for their maturities, provided that any investment in corporate debt obligations and commercial paper shall be subject to the limitations of § 545.9–4 of this Part.

* * * * *

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

3. Revise the title and the text of § 563.9–6, to read as follows:

§ 563.9–6 Investment in commercial banks and insured institutions.

An insured institution's investments in (a) time and savings deposits of an insured bank or insured institution (including loans of unsecured day(s) funds, *i.e.* Federal funds or similar unsecured loans), (b) debt securities hedged by a firm forward commitment to purchase the debt securities issued by a member of the Association of Primary Dealers in United States Government Securities ("Association member"), by an insured bank or by an insured institution, or (c) debt securities subject to a repurchase agreement entered by an Association member, an insured bank or an insured institution shall not exceed, with respect to any one Association member, insured bank or insured institution, the greater of (1) one hundred thousand dollars or (2) the lesser of (i) one quarter of one percent of the deposits of the institution from which the investment or repurchase agreement or forward commitment is obtained, or (ii) the greater of the investing institution's net worth or one percent of the institution's assets.

(Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947; 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–21370 Filed 8–5–82; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1, 3, 375, and 381

[Docket No. RM82–35–000]

Fees Applicable to General Activities; Extension of Time

July 29, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Extension of comment period on proposed rulemaking.

SUMMARY: On July 23, 1982, Conoco, Inc. (Conoco) filed a motion for an extension of time to file comments in response to the Commission's Notice of Proposed Rulemaking issued June 15, 1982 (June 24, 1982, 47 FR 27375), in the above-docketed proceeding relating to fees applicable to general activities. Conoco requests that this extension be granted because of the delay in the placement of additional cost data in the public file of this proceeding, as indicated in the June 15, 1982, notice.

Because of the unanticipated delay in the placement of additional data in the public file of this proposed rule, notice is hereby given that an extension of time for the filing of comments is granted to and including August 23, 1982.

DATE: Comments must be submitted on or before August 23, 1982.

ADDRESS: Submit comments to Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, (202) 357–8400.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–21151 Filed 8–5–82; 8:45 am]

BILLING CODE 6450–85–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 172, 182, and 184

[Docket No. 81N–0313]

Starter Distillate and Diacetyl; Proposed GRAS Status as Direct Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that starter distillate and diacetyl are generally recognized as safe (GRAS) as direct human food ingredients. The agency is also proposing to remove butter starter distillate from the list of food additives. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Written comments by October 5, 1982.

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

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of starter distillate and diacetyl has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of these ingredients.

Starter distillate or butter starter distillate is a flavoring used to impart a butterlike flavor to processed foods. Manufacturers sell it to the food industry under the name starter distillate, but producers of some food products prefer to identify the substance as butter starter distillate. FDA regards starter distillate and butter starter distillate as different names for the same substance. Starter distillate is a steam distillate of the culture of any or all of the following species of bacteria grown on a medium consisting of skim milk, usually fortified with about 0.1 percent citric acid: *Streptococcus lactis, S. cremoris, S. lactis subsp. diacetylactis, Leuconostoc citrovorum,* and *L. dextranicum.* Water constitutes more than 98 percent of the weight of the distillate. The remainder is composed principally of a mixture of flavor compounds.

Diacetyl is the major flavor compound in starter distillate, constituting as much as 80 to 90 percent of the flavor mixture. Ferric chloride is added to the distillation pot during production of starter distillate to increase the yield of diacetyl by oxidizing acetoin formed during the bacterial fermentation. Commercial starter distillates are commonly standardized on the basis of diacetyl concentration at levels of 1.0 milligram (mg) per milliter (mL) and 15 mg per mL.

Diacetyl is also known as 2,3-butanedione,2,3-diketobutane, biacetyl, dimethyldiketone, and dimethylglyoxal. It is chemically synthesized from methyl ethyl ketone. It is a clear yellow-to-yellowish-greem liquid with a strong, pungent odor, and in very dilute water solution, it has a typical buttery odor and flavor. It is miscible in water, glycerin, alcohol, and ether.

Besides diacetyl, commercial starter distillates also contain varying amounts of acetaldehyde, ethyl formate, ethyl acetate, acetone, ethanol, 2-butanone, acetic acid, acetoin, and many other minor organic components that are present in concentrations of less than 0.01 mg per mL. The combined concentration of all organic components other than diacetyl and acetic acid is estimated to be less than 2.4 mg per mL.

Both starter distillate and diacetyl have prior sanctions that were granted by the U.S. Department of Agriculture (USDA) before 1958 for use as a flavor in oleomargarine in amounts sufficient for the purpose. USDA has subsequently approved this use of starter distillate and diacetyl under 9 CFR 318.7. Starter distillate is also listed under the name of butter starter distillate in § 172.515 (21 CFR 172.515) as a synthetic flavoring substance and adjuvant, under a regulation published in the **Federal Register** of October 27, 1964 (29 FR 14625). Diacetyl is listed in § 182.60 (21 CFR 18260) as GRAS as a synthetic flavoring substance and adjuvant, under a regulation published in the **Federal Register** of May 9, 1961 (26 FR 3991).

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which starter distillate and diacetyl were used and the levels of usage. The survey revealed that starter distillate is used as a flavoring substance, principally in margarine but also in lesser quantities in a variety of other products, such as butter, oils, candy, dairy desserts, and baked goods. The level of starter distillate used in foods is limited by the disagreeable flavor of the diacetyl component at high concentrations.

However, diacetyl has a desirable flavor when used at a level between 0.05 part per million (ppm) and about 5.0 ppm. It is used in a variety of foods to enhance their flavor but at much lower concentrations that starter distillate.

From the NAS/NRC survey, FDA estimates that approximately 39,600 pounds (lb) (18,000 kilograms (kg) of diacetyl were used as a food ingredient in 1970. Information from a second MAS/NRC survey estimated that about 660,000 to 880,000 lbs (300,000 to 400,000 kg) of starter distillate were sold to the food industry in 1978. The per capita daily intakes of diacetyl in the United States is estimated to be less than 0.3 mg. The per capita daily intake of starter distillate is estimated to be about 5 mg or about 0.1 mg on an anhydrous basis.

Starter distillate and diacetyl have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behaviorial effects, (12) detection, and (13) processing. A total of 2,281 abstracts were reviewed, and 40 articularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Committee on GRAS Substances (Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have carefully evaluated all the available safety information on starter distillate and diacetyl.[1] In the Select Committee's opinion:

Diacetyl is added to some foods for flavoring purposes. It is metabolized in mammals, is of low acute toxicity, and the no-adverse-effect level, based on a 90-day study in rats, is approximately 90 mg per kg body weight. The per capita daily intake of diacetyl added to food, both as a component of starter distillate and as diacetyl itself, is estimated to be less than 0.3 mg.

[1] "Evaluation of the Health Aspects of Starter Distillate and Diacetyl as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1980, p. 11–14. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

Available studies of the biological effects of commercial starter distillate consist of two recent reports; the one showed that starter distillate exhibited no mutagenic activity in *in vitro* test systems; the other showed that it was without teratogenic activity when administered orally in doses as high as 1600 mg per kg body weight to pregnant mice, rats, hamsters, and rabbits.

The per capita daily intake of starter distillate is about 5 mg or about 0.1 mg on an anhydrous basis. Diacetyl and acetic acid are major components of starter distillate; total daily per capita intake of all organic components of starter distillate, other than diacetyl and acetic acid, is estimated to be less than 0.08 μg per kg body weight. Based on the nature of the starting material and the process used to produce starter distillate, the Select Committee has no grounds to suspect that the small amount of unidentified ingredients poses a hazard. It would appear that the possibility of hazards from the addition of starter distillate is minimal. However, no food grade standards exist for starter distillate. It is a mixture of many substances, not all of which have been identified, whose qualitative and quantitative composition may vary depending on the combinations of microorganisms used in the starter culture, and on the conditions of steam distillation. Hence, there is need for establishing practical food-grade standards for starter distillate specifying acceptable limits of variability.[2]

The Select Committee concludes that no evidence in the available information on starter distillate or diacetyl demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when these substances are used at levels that are now current or that might reasonably be expected in the future.[3]

FDA has undertaken its own evaluation of all available information on food uses of starter distillate and diacetyl and concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status of this ingredient is justified. Therefore, the agency proposes that diacetyl and starter distillate be affirmed as GRAS.

FDA is also proposing to remove butter starter distillate from the agency's food additive regulations (21 CFR 172.515) and to affirm it as GRAS in Part 184. This proposal is consistent with previous FDA actions during the GRAS review of food-flavoring ingredients. The basis for this proposal is FASEB's finding that this substance should be affirmed as GRAS. This finding evidences the general recognition of the safety of this ingredient among food scientists. Therefore, the agency believes that this ingredient is most properly included among the ingredients listed in Part 184.

Because no food-grade specifications exist for starter distillate at the present time, the agency will work with the Committee on Codex Specifications of the National Academy of Sciences to develop acceptable specifications for this ingredient. If acceptable specifications are developed, the agency will incorporate them into this regulation at a later date. Until specifications are developed, FDA has determined that the public health will be adequately protected if commercial starter distillates comply with the description in the proposed regulation and is of food-grade purity (21 CFR 170.30(h)(1) and 182.1(b)(3)).

Additionally, FDA is proposing not to include in the GRAS affirmation regulations for starter distillate and diacetyl the categories and the levels of use reported in the NAS/NRC 1971 survey for these ingredients. Both FASEB and the agency have concluded that a large margin of safety exists for the use of these substances, and that a reasonably foreseeable increase in the level of consumption of starter distillate and diacetyl will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of starter distillate and diacetyl when they are used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of these substances is based on the evaluation of limited uses, the proposed regulations set forth the technical effect that the agency evaluated.

In the future, FDA will propose to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency intends to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

Copies of the scientific literature review on starter distillate and diacetyl and the report of the Select Committee are available for review at the Dockets Management Branch (address above) and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Starter distillate (scientifc literature review).	PB 234-896/AS	A07	$13.50
Starter distillate and diacetyl (Select Committee report).	PB 80 178-668	A03	7.50

[1] Price subject to change.

The format of the proposed rule is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1278 and 184.1848 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effect listed. This change has no substantive effect but is made merely for clarity.

This proposed action does not affect the current use of starter distillate and diacetyl for pet food or animal feed.

The agency has determined pursuant to 21 CFR 25.24(d)(6) (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.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substance covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 172

Food additives, Food preservatives, Spices and flavorings.

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

[2] *Ibid.*, p.15.
[3] *Ibid.*

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

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, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 172, 182, and 184 be amended as follows:

§ 172.515 [Amended]

1. In § 172.515 *Synthetic flavoring substances and adjuvants* by removing "Butter starter distillate" from the list of substances.

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.60 [Amended]

2. In § 182.60 *Synthetic flavoring substances and adjuvants* by removing "Diacetyl (2,3-butanedione)" from the list of substances.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. In Part 184:

a. By adding new § 184.1278, to read as follows:

§ 184.1278 Diacetyl.

(a) Diacetyl ($C_4H_6O_2$, CAS Reg. No. 431-03-8) is a clear yellow to yellowish green liquid with a strong pungent odor. It is also known as 2,3-butanedione and is chemically synthesized from methyl ethyl ketone. It is miscible in water, glycerin, alcohol, and ether, and in very dilute water solution, it has a typical buttery odor and flavor.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 368, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

b. By adding new § 184.1848, to read as follows:

§ 184.1848 Starter distillate

(a) Starter distillate (butter starter distillate) is a steam distillate of the culture of any or all of the following species of bacteria grown on a medium consisting of skim milk usually fortified with about 0.1 percent citric acid: *Streptococcus lactis, S. cremoris, S. lactis subsp. diacetylactis, Leuconostoc citrovorum,* and *L. dextranicum.* The ingredient contains more than 98 percent water, and the remainder is a mixture of butterlike flavor compounds. Diacetyl is the major flavor component, constituting as much as 80 to 90 percent of the mixture of organic flavor compounds. Besides diacetyl, starter distillate contains minor amounts of acetaldehyde, ethyl formate, ethyl acetate, aceteone, ethanol, 2-butanone, acetic acid, and acetoin.

(b) FDA is developing food-grade specifications for starter distillate in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before October 5, 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: July 9, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-21399 Filed 8-5-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket No. 81N-0280]

Malt Syrup (Malt Extract); Proposed Affirmation of GRAS status as Direct Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that malt syrup (also known as malt extract) is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Written comments by October 5, 1982.

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

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the Federal Register of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of malt syrup (malt extract) has been evaluated.

In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of this ingredient.

Malt is the product of barley (*Hordeum vulgare* L.) germinated under controlled conditions. Malt syrup and malt extract are interchangeable terms for a viscous concentrate of a water extract of geminated barley grain. The terms "malt syrup" and "malt extract" are applied only to products prepared from barley. If any other malted grain is also used, the extract or syrup may be designated by names such as "malted cereal syrup" or "extract of malted barley and corn."

In producing malt, barley is cleaned and softened by a series of steeping operations in water at 10° to 15° C until the moisture content of the kernels reaches 44 to 45 percent. The grain is then germinated under controlled conditions of moisture, temperature, and aeration for 5 to 7 days. The germinated grain is finally dried in a kiln until the moisture content reaches 1.5 to 3 percent. After removal of the rootlets, the germinated grain is ground and extracted with water to provide a medium called wort. The desired content of enzymatic activity, dextrin, fermentable sugars, proteins, and amino acids is obtained by manipulating the time, temperature, pH, and concentration of the malt-water mixture (wort). After filtering off the hulls, the suspended solids are allowed to settle. The resultant wort, consisting of 10 to 12 percent solids, is evaporated to produce malt syrup (malt extract) with 75 to 80 percent solids, or, upon removal of additional moisture, a dried malt syrup (dried malt extract) with higher solids content.

Malt syrup is usually a brown, sweet, and viscous liquid containing varying amounts of amylolytic enzymes and plant constituents. It is soluble in cold water but more readily soluble in hot water. The specific gravity approximates 1.4 at 25° C. Different lots of malt syrup may be blended by the manufacturer to meet the specifications of customers. The readily detectable compounds in malt syrup are reducing sugars, proteins, amino acids, glycerides, fatty acids, sterols, other organic acids, vitamins, minerals, pyrrolidine, and zeatin.

Malt syrup (malt extract) is listed as malt extract in § 182.20 (21 CFR 182.20) as GRAS as a food flavoring, under a regulation published in the Federal Register of June 10, 1961 (26 FR 5221). The same ingredient, malt syrup, was prior sanctioned by the U.S. Department of Agriculture (USDA) before 1958 as a flavoring agent in cured meat at a 2.5-percent level. Malt syrup (sirup) may also be used in the preparation of caramel under § 73.85 (21 CFR 73.85), which provides for the use of caramel as a color additive.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which malt syrup is used and the levels of usage. Malt syrup, also reported as malt extract, is used as a flavoring agent in a variety of foods, such as baked goods, frozen dairy products, soft candy, meat products, milk products, and breakfast cereals. From an additional NAS/NRC survey, FDA estimates that about 6,990,000 pounds (3,177,000 kilograms) of malt syrup and 150,000 pounds (68,000 kilograms) of dried malt syrup were used in 1976. This level of use corresponds to an average per capita consumption of about 40 milligrams of malt syrup and 0.09 milligram of dried malt syrup per day.

Malt syrup and malt extract were the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered: (1) Chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 684 abstracts was reviewed, and 39 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Cmmittee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have carefully evaluated all the available safety information on malt syrup (malt extract).[1] In the Select Committee's opinion:

The amount of toxicological testing of malt syrup and extract as complete mixtures is scanty. No standard acute toxicity tests, short- or long-term feeding studies, or carcinogenicity investigations have come to the attention of the Select Committee.

The relevant data that are available, however, indicate lack of hazard. Detailed examination of the chemical composition of malt syrup and malt extract reveals no theoretical basis for anticipating a health hazard for human beings. Reports on the toxicology of other GRAS substances containing over twenty of the constituent compounds have indicated no adverse effects at levels greater than the estimated consumption of 40 mg per person per day of malt syrup and extract. One series of tests with malt extract involving yeast and bacteria showed no mutagenicity. A chick embryo experiment demonstrated no teratogenicity. Two observations on humans concerning the effect of malt extract on bowel content and muscular effort, respectively, showed no harmful reactions. However, hypersensitivity has been reported in children.

Widespread human experience in the consumption of the raw material, barley grain, and malted beverages has not shown adverse effects traceable to malt extract. The production methods of today are reasonably well controlled and minimize the chances of unwitting introduction of toxic contaminants. Current information indicates that malt syrup and extract do not contain detectable amounts of dimethylnitrosamine; however, processing methods should insure that these products continue to be free of nitrosamines.[2]

The Select Committee concludes that no evidence in the available information on malt syrup and malt extract demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when used at levels that are now current or that might reasonably be expected in the future.[3]

FDA has undertaken its own evaluation of all available information on food uses of malt syrup (malt extract) and concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status of this ingredient is justified. Therefore, the agency proposes that malt syrup (malt extract) be affirmed as GRAS. To avoid any misinterpretations regarding the identity of this ingredient, FDA is proposing to adopt the name malt syrup (malt extract) in the proposed GRAS affirmation regulations.

[1] "Evaluation of the Health Aspects of Malt Syrup and Extract as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1980, p. 8-9. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting that discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

[2] *Ibid.*, p. 10.

[3] *Ibid.*

Because no food-grade specifications exist for malt syrup at the present time, the agency will work with the Committee on Codex Specifications of the National Academy of Sciences to develop acceptable specifications for this ingredient. If acceptable specifications are developed, the agency will incorporate them into this regulation at a later date. Until specifications are developed, FDA has determined that the public health will be adequately protected if commercial malt syrup complies with the description in this proposed regulation and is of food-grade purity (21 CFR 182.1(b)(3) and 170.30(h)(1)).

Additionally, FDA is proposing not to include in the GRAS affirmation regulation for malt syrup the categories and the levels of use reported in the NAS/NRC 1971 survey for this ingredient. Both FASEB and the agency have concluded that a large margin of safety exists for the use of this substance, and that a reasonably foreseeable increase in the level of consumption of malt syrup will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of malt syrup (malt extract) when it is used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of malt syrup is based on the evaluaiton of limited uses, the proposed regulation sets forth the technical effect that FDA evaluated.

In the future, FDA will propose to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency intends to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

Copies of the scientific literature review on malt syrup and the report of the Select Committee are available for review at the Dockets Management Branch (address above) and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Malt extract (scientific literature review).	PB 284-881	A05	$10.50
Malt syrup and extract (Select Committee report).	PB 81-121402	A02	6.00

[1] Price subject to change.

This proposed action does not affect the current use of malt syrup in pet food or animal feed.

The format of this proposed rule is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1445 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effect listed. This change has no substantive effect but is made merely for clarity.

The agency has determined pursuant to 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed 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.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substance covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.20 [Amended]

1. Part 182 is amended in § 182.20 *Essential oils, oleoresins (solvent-free), and natural extractives (including distillates)* by removing the entry "Malt (extract)" from the list of substances.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1445, to read as follows:

§ 184.1445 Malt syrup (malt extract).

(a) Malt is the product of barley (*Hordeum vulgare* L.) germinated under controlled conditions. Malt syrup and malt extract are interchangeable terms for a viscous concentrate of a water extract of germinated barley grain, with or without added safe preservative. Malt syrup is usually a brown, sweet, and viscous liquid containing varying amounts of amylolytic enzymes and plant constituents. Barley is first softened after cleaning by steeping operations and then allowed to germinate under controlled conditions. The germinated grain then undergoes processing, such as drying, grinding, extracting, filtering, and evaporating, to produce malt syrup (malt extract) with 75 to 80 percent solids or dried malt syrup with higher solids content.

(b) FDA is developing food-grade specifications for malt syrup (malt extract) in cooperation with the National Academy of Sciences. In the interim, the ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

The agency is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those identified in this document. Any

person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Costmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before October 5, 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: July 9, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-21397 Filed 8-5-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket No. 79N-0032]

Lecithin; Affirmation of GRAS Status as a Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that lecithin is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Comments by October 5, 1982.

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

FOR FURTHER INFORMATION CONTACT: Lawrence Lin, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of lecithin has been evaluated. In accordance with § 170.35 (21 CFR 170.35), the agency is proposing to affirm the GRAS status of lecithin.

Commercial lecithin is a naturally occurring mixture of the phosphatides of choline, ethanolamine, and inositol. It is isolated as a gum following the hydration of solvent-extracted soy, safflower, or corn oils. The lecithin product is bleached, if desired, and dried by heating. The bleaching agent is hydrogen peroxide or benzoyl peroxide, and either a "bleached" or "double-bleached" product may be obtained. The terms "bleached" and "double-bleached" are indicative of the color of the commercial lecithin products and do not necessarily relate to the duration of the bleaching process or the number of bleaching treatments. Commercial lecithin products may exist in a fluid or plastic consistency, depending on their content of vegetable oils or free fatty acids.

This GRAS affirmation proposal does not cover hydroxylated lecithin, a regulated food additive. Under § 172.814 (21 CFR 172.814), hydroxylated lecithin may be used in foods as an emulsifier, and under § 173.340 (21 CFR 173.340), it may be used as a component of defoaming agents in processing beet sugar and yeast.

Lecithin is listed in § 182.1400 (21 CFR 182.1400) as a multiple-purpose GRAS food substance, under regulations published in the **Federal Register** of January 31, 1961 (26 FR 938). It is also listed in § 182.70 (21 CFR 182.70) as a GRAS substance migrating to food from cotton and cotton fabrics used in dry food packaging, under regulations published in the **Federal Register** of June 10, 1961 (26 FR 5224). In addition, in 1960 FDA issued an opinion letter that stated that lecithin bleached with hydrogen peroxide is GRAS if no residual unreacted peroxide remains in the product.

Lecithin has a U.S. Department of Agriculture (USDA) prior sanction for use in lard and lard oil, in an amount sufficient for its intended purpose, as an emulsifier or to retard the development of rancidity. It also may be used, under another USDA prior sanction, as an emulsifier in margarine at levels up to 0.5 percent.

Under § 175.300 (21 CFR 175.300) of the food additive regulations, lecithin may be used as a component of resinous and polymeric coatings. Under Federal standards of identity for foods, lecithin is listed as an optional ingredient in certain pasteurized process cheeses (21 CFR 133.169, 133.171 and 133.179), in bread, rolls, and buns (21 CFR 136.110), in certain cacao products (21 CFR 163.123 and 163.130), in margarine (21 CFR Part 166), and in certain food dressings (21 CFR 169.115, 169.140, and 169.150).

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which lecithin and lecithin bleached with hydrogen peroxide are used and the levels of usage. The survey reported that lecithin is used in processed foods as an emulsifier, stabilizer, conditioning and release agent, wetting and dispersing agent, surfactant, and antioxidant. The foods to which lecithin is typically added are baked goods, candies, chocolate products, dehydrated foods, edible fats and oils, ice cream, macaroni and noodles, margarine, and whipped toppings. Lecithin additionally is used as a spray lubricant for general food applications. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to these lecithin products.

From the NAS/NRC survey FDA estimates the amounts of lecithin and lecithin bleached with hydrogen peroxide used in 1970 were 15,180,000 and 660,000 pounds (6,891,720 and 299,640 kilograms), respectively. Compared to 1960 usage levels, these figures represent a 79 percent increase in the use of lecithin and a 134-percent increase in the use of lecithin bleached with hydrogen peroxide.

Lecithin has been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered: (1) Chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 3,092 abstracts was reviewed, and 89 particularly pertinent reports from the

literature survey have been summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have carefully evaluated all the available safety information on lecithin and lecithin bleached with hydrogen peroxide.[1] In the Select Committee's opinion:

Food grade lecithin is a complex mixture of substances derived from the processing of soybean, corn, or safflower oil. Almost all of the lecithin of commerce is derived from soybeans. Phosphoglycerides, the major constituents of lecithin, are present throughout the body as chief components of cell membranes; significant amounts are also present in bile and plasma. The major phosphoglycerides found in soy lecithin can be catabolized and also synthesized *de novo* in mammalian systems. Commercial lecithin may contain up to 35 percent triglycerides; these compounds occur naturally in the diet and are also catabolized and synthesized in man.

The average daily consumption of lecithin added to foods by manufacturers in 1970, based on the total amount reported to be used, was 92 mg, amounting to about 1.5 mg per kg body weight for adults. The corresponding figure for lecithin bleached with hydrogen peroxide was probably less than 4 mg, about 0.07 mg per kg. Thus, the lecithin added to foods amounts to only 2 to 10 percent of the 1 to 5 g of phosphoglycerides consumed daily as natural constituents of the diet.

A 2-year feeding study in rats given 1,400 mg per kg of lecithin daily (equivalent to a human dose of about 84 g daily) showed no adverse effects except for an increased incidence of parathyroid hyperplasia. The parathyroid hyperplasia seen in the rats probably resulted from the increased phosphate load in the diet. No adverse effects have been noted in volunteers taking 20 g or more of lecithin daily for several months.

The Select Committee is not aware of any animal feeding studies with food grade bleached lecithin. Similarly, there appear to be no studies identifying the reaction products of lecithin bleached with hydrogen peroxide. However, in another report, the Select Committee reviewed studies of animals fed compounds which conceivably could form as a result of hydrogen peroxide oxidation of unsaturated fatty acids. Limited feeding studies indicate these compounds are not carcinogenic when given orally and are toxic only at doses orders of magnitude greater than could be expected from the addition to food of lecithin bleached with hydrogen peroxide.

No specifications are listed in the Food Chemicals Codex for the peroxide value of lecithin bleached with hydrogen peroxide; the Select Committee believes such specifications should be developed.[2]

The Select Committee concludes that no evidence in the available information on lecithin and lecithin bleached with hydrogen peroxide demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when these substances are used at levels that are now current or that might reasonably be expected in the future.[3]

In addition to the above FASEB review of lecithin, FDA received in February 1980, a prepublication manuscript from Japan (Ito, Watanabe, and Naito, Department of Cancer Research, Research Institute for Nuclear Medicine and Biology, Hiroshima University, Kasumi 1–2–3, Hiroshima 734, Japan) describing a biossay of hydrogen peroxide performed using C57B1 mice. The study was a lifetime feeding study that suggests that hydrogen peroxide may cause cancer in the duodenum after it is administered in the drinking water at 0.1 percent and 0.4 percent.

In response to the study from Japan, FDA initiated a review of all available safety data on hydrogen peroxide, including the Japanese study and subsequent clarification obtained from the Japanese authors. FDA concludes after this review that there is not sufficient evidence from the Japanese study and elsewhere to conclude that hydrogen peroxide is a duodenal carcinogen. The agency made the same determination in adopting the regulation that permits the use of hydrogen peroxide as a sterilizing agent for polyethylene used in contact with food (21 CFR 178.1005) and in adopting the regulation that affirms that the use of hydrogen peroxide in cheese and whey products is GRAS (46 FR 44434; September 4, 1981). The manuscripts of the Japanese study and memorandum of FDA's Cancer Assessment Committee meetings are on public file (under Docket No. 78N–0369), and may be seen in the Dockets Management Branch (address above), from 9 a.m. and 4 p.m., Monday through Friday.

The agency has also considered the safety of lecithin that may contain residual peroxide. The presence of peroxide in bleached lecithin seems to be in violation of the terms of early FDA opinion letters that stated that bleached lecithin was GRAS as a food ingredient, provided that it contained no residual unreacted peroxide. Since the opinion letters were issued, however, additional information has been developed on the safety of lecithin bleached with hydrogen peroxide. Applicable safety data have been submitted in support of the safety of hydroxylated lecithin, which is produced by treating lecithin with hydrogen peroxide, benzoyl peroxide, and lactic acid or acetic acid. In addition, the Select Committee has found no hazard in the use of either bleached or unbleached lecithin at current or foreseeable levels. FDA agrees, after a comprehensive review of the FASEB evaluation and the other data cited, that commercial bleached lecithin, even though it may contain trace amounts of residual unreacted peroxide, is safe for direct human food use and may be affirmed as GRAS when used in accordance with current good manufacturing practice. The agency also concludes that specifications, containing a limit on residual unreacted peroxide, adopted in the Food Chemicals Codex, 3d Ed. (1981), are adequate to assure continued safe use of lecithin as a food ingredient.

As indicated above, the Select Committee considered bleached and unbleached lecithin separately in its recent report on lecithin. However, evidence exists that the food industry now uses bleached and unbleached lecithin interchangeably. An industry submission, dated December 26, 1979, stated that "approximately 80 percent of all lecithin manufactured in the U.S. is the bleached variety." Moreover, the submission maintained that bleached lecithin has been used by the food industry under the name "lecithin" since the 1930's. In light of this information, FDA concludes that the agency should not distinguish between bleached and unbleached lecithin in this GRAS safety review. Therefore, FDA is evaluating the safety of lecithin as an ingredient that includes both bleached and unbleached lecithin, and the agency is proposing a single GRAS affirmation regulation for these ingredients.

Additionally, FDA is proposing not to include in the GRAS affirmation regulation for lecithin the technical effects, food categories, and levels of use reported in the 1971 NAS/NRC food

[1] "Evaluation of the Health Aspects of Lecithin as a Food Ingredient," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1979, pp. 14–20. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

[2] *Ibid., p. 21.*

[3] *Ibid., p. 22.*

survey for this ingredient. Both FASEB and the agency have concluded that a large margin of safety exists for the use of this substance, and that a reasonably foreseeable increase in the level of consumption of lecithin will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of lecithin when it is used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)).

In the future, FDA will propose to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency intends to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

In the past, when a substance has been listed in Part 182 (21 CFR Part 182) as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 (21 CFR Parts 184 and 186) to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without there being a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of lecithin. The indirect uses of lecithin would be authorized under §§ 184.1400 and 184.1(a).

In the case of lecithin, FDA believes that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of the ingredient. Therefore, the agency has not proposed any specific purity specifications for its indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA published a proposal in the **Federal Register** of June 25, 1982 (47 FR 27817) to amend its procedural regulations in Parts 184 and 186 to reflect these policies.

The food additive uses cited earlier in this document for lecithin and hydroxylated lecithin are not affected by this proposed action.

Copies of scientific literature reviews on lecithin, mutagenic and teratogenic evaluations, and the report of the Select Committee are available for review in the Dockets Management Branch (address above) and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161 as follows:

Title	Order No.	Price code	Price [1]
Lecithin (scientific literature review).	PB 241-970/AS.	A08	$15.00
Lecithin (review of recent literature).	PB 275-751/AS.	A02	6.00
Lecithin (mutagenic evaluation).	PB 245-478/AS.	A03	7.50
Lecithin (teratogenic evaluation).	PB 234-874/AS.	A03	7.50
Lecithin (Select Committee report).	PB 301-405/AS.	A03	7.50

[1] Price subject to change.

This proposed action does not affect the current use of lecithin or hydroxylated lecithin in pet food or animal feed.

The format of this proposed regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1400 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use. This change has no substantive effect but is made merely for clarity.

The agency has determined pursuant to 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed 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 environment impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposed rule, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.70 [Amended]

1. Part 182 is amended:

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entry for "lecithin (vegetable)" from the list of substances.

§ 182.1400 [Removed]

b. By removing § 182.1400 *Lecithin.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1400, to read as follows:

§ 184.1400 Lecithin.

(a) Commercial lecithin is a naturally occurring mixture of the phosphatides of choline, ethanolamine, and inositol, with smaller amounts of other lipids. It is isolated as a gum following hydration of solvent-extracted soy, safflower, or corn oils. Lecithin is bleached, if desired, by hydrogen peroxide and benzoyl peroxide and dried by heating.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), pp. 166–167, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal

Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice.

The agency is unaware of any prior sanction for the use of this ingredient in food under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before October 5, 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: July 9, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-21398 Filed 8-5-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket No. 81N-0225]

Carnauba Wax; Proposed Affirmation of GRAS Status as a Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that carnauba wax is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under a comprehensive safety review of GRAS ingredients conducted by the agency.

DATE: Comments by October 5, 1982.

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

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of carnauba wax has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of carnauba wax as a direct human food ingredient.

Carnauba wax is obtained from the leaves and buds of the Brazilian wax palm *Copernicia cerifera* Martius. The wax is hard, brittle, sparingly soluble in cold organic solvents, and insoluble in water. It is marketed in five grades, designated Nos. 1 through 5. Grade Nos. 4 and 5 represent the bulk of commercial trade volume. These commercial grades consist chiefly of 24-carbon (C_{24}) to 32-carbon (C_{32}) normal saturated monofunctional fatty acids and normal saturated monofunctional primary alcohols.

The principal commercial source of carnauba wax is Brazil. Its major use is in nonfood applications as a component of polishes and carbon paper.

Carnauba wax is listed in § 182.1978 (21 CFR 182.1978) as GRAS for use as a multiple purpose food ingredient under a regulations published in the **Federal Register** of January 31, 1961 (26 FR 938). Carnauba wax is also listed in § 175.320 (21 CFR 175.320) for use as an adjuvant in resinous and polymeric coatings for polyolefin films.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which carnauba wax is used and the level of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to carnauba wax. From the NAS/NRC survey, FDA estimates that the total amount of carnauba wax used in food in 1970 was 196,000 pounds. The survey showed that carnauba wax is used in food as an anticaking agent, a lubricant and release agent, and as a surface finishing agent. It is used in such foods as baked goods, confections and frostings, chewing gum, processed fruits, and soft candies. Carnauba wax is also used as a coating on fresh fruits.

Carnauba wax was the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 31 abstracts on carnauba wax was reviewed, and 21 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review and other available studies has been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). In the Select Committee's opinion:

> Carnauba wax is a substance of plant origin that is used at a low level of addition in a limited number of food products. The per capita adult daily intake has been estimated to be 1.2 mg. Despite its use in food since 1900, an extensive search of the literature has revealed no information on its absorption, metabolism or excretion by animals, acute or chronic toxicity, or its teratogenic or carcinogenic properties.[1]

The Select Committee therefore concludes that because of the almost complete lack of biological studies, it has insufficient data upon which to evaluate the safety of carnauba wax as a multiple purpose GRAS ingredient.[2]

In response to a notice published in the **Federal Register** of February 10, 1976 (41 FR 5862), announcing the Select Committee's tentative findings and providing an opportunity for a public hearing, interested persons met with agency officials to discuss the status of carnauba wax. During that meeting, the interested persons agreed to conduct the

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[1] "Evaluation of the Health Aspects of Carnauba Wax as a Food Ingredient," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1975, p. 7.

[2] *Ibid.*

toxicological studies required to assure the continued safe use of carnauba wax as a multiple purpose GRAS ingredient. Specifically, the agency requested (1) a 6-month feeding study in dogs and (2) a 7-month rat feeding study with one reproductive cycle. The interested persons developed the protocols for these studies in consultation with the agency.

These studies have been completed, and the results have been submitted to the agency. The agency has reviewed the data and has found no adverse effects associated with the feeding of carnauba wax in these studies. Furthermore, the studies provide data indicating that carnauba wax is safe at levels several orders of magnitude higher than the estimated human exposure from all food uses of this ingredient. Although these studies are not published, FDA has determined that they provide an adequate basis upon which to affirm carnauba wax as GRAS when used in accordance with current good manufacturing practice. FDA is therefore affirming the ingredient as GRAS on the basis of this evidence of its safety and on the basis of its common use in food prior to 1958. Copies of the reports on the 6-month feeding study in dogs and the 7-month feeding study in rats are available for review at the Dockets Management Branch (address above).

Additionally, FDA is proposing not to include in the GRAS affirmation regulation for carnauba wax the levels of use reported in the NAS/NRC 1971 survey for this ingredient. The agency has concluded that a large margin of safety exists for the use of this substance, and that a reasonably foreseeable increase in the level of consumption of carnauba wax will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of carnauba wax when it is used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of carnauba wax is based on the evaluation of limited uses, the proposed regulation sets forth the technical effects and food categories that FDA evaluated.

In the future, FDA will propose to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency intends to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

Copies of the scientific literature review of carnauba wax and the report of the Select Committee are available for review at the Dockets Management Branch (address above) and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price[1]
Carnauba wax (scientific literature review).	PB-223-855/AS.	A02	$6.00
Carnauba wax (mutagenic evaluation).	PB-245-474/AS.	A03	7.50
Carnauba wax (Select Committee report).	PB-262-658/AS.	A02	6.00

[1]Price subject to change.

This proposed action does not affect the current use of carnauba wax in pet food or animal feed.

The format of the proposed regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1978 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including both the technical effects and food categories listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed 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.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substance covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients; Food ingredients; Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.1978 [Removed]

1. Part 182 is amended by removing § 182.1978 *Carnauba wax.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1978, to read as follows:

§ 184.1978 Carnauba wax.

(a) Carnauba wax (CAS Reg. No. 008–015–869) is obtained from the leaves and buds of the Brazilian wax palm *Copernicia cerifera* Martius. The wax is hard, brittle, sparingly soluble in cold organic solvents and insoluble in water. It is marketed in five grades designated No. 1 through No. 5. Grades No. 4 and No. 5 represent the bulk of the commercial trade volume. These commercial grades consist chiefly of C_{24} to C_{32} normal saturated monofunctional fatty acids and normal saturated monofunctional primary alcohols.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 73, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave., NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St., NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an anticaking agent as defined in § 170.3(o)(1) of this chapter; as a lubricant and release agent as defined in § 170.3(o)(18) of this chapter; and as a surface-finishing agent as defined in § 170.3(o)(30) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter; chewing gum as defined in § 170.3(n)(6) of this chapter; confections and frostings as defined in § 170.3(n)(9) of this chapter; fresh fruit and fruit juices as defined in § 170.3(n)(16) of this chapter; processed fruits and fruit juices as defined in § 170.3(n)(35) of this chapter; and soft candy as defined in § 170.3(n)(38) of this chapter.

The agency is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before October 5, 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: July 9, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-21396 Filed 8-5-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 358

[Docket No. 81N-0201]

Pediculicide Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

Corrections

In FR Doc. 82-17480 appearing on page 28312 in the issue for Tuesday, June 29, 1982 make the following changes:

1. On page 28313, second column, third line from the top, "OCT" should read "OTC"; and in the twenty-sixth line from the top, "active" should read "inactive".

2. On page 28314, second column, seventh line of the paragraph numbered 1, remove the semicolon after "Isobornyl".

3. On page 28317, first column, first full paragraph, ninth line from the bottom, "of" should read "or".

4. On page 28319, third column, paragraph c. (2), second line from the bottom, "than" should read "then"; last line of that same paragraph, "29" should read "20".

5. On page 28320, third column, fourth line from the bottom, "§ 358.6601" should read "§ 358.601".

6. On page 28321, first column, § 358.650(c)(3), second line, "of" should read "or".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 519

Employment of Full-Time Students at Subminimum Wages

AGENCY: Wage and Hour Division, ESA, Labor.

ACTION: Proposed rule: extension of comment period.

SUMMARY: On July 16, 1982, notice of proposed rulemaking was published in the **Federal Register** (47 FR 31010-11) advising that the Wage and Hour Division was proposing to amend Part 519 of Title 29 of the Code of Federal Regulations, issued under the authority of sec. 14(b) of the Fair Labor Standards Act. These regulations govern the employment of full-time students at subminimum wages and currently limit the effective period of a certificate authorizing such employment to a period of not more than one year. The proposed rulemaking was to amend this provision to provide for: "A full-time student certificate shall be effective for a period to be designated by the Administrator or his authorized representative."

That notice provided that comments regarding the proposed rulemaking must be received on or before August 16, 1982.

Due to the degree of interest that has been expressed in this proposed revision, the Administrator of the Wage and Hour Division is extending the period for written comments 150 days to January 13, 1983.

DATE: Comments should be received on or before January 13, 1983.

ADDRESS: Comments should be addressed to William M. Otter, Administrator, Wage and Hour Division, Attention: James L. Valin, Room S-3502, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James L. Valin, Wage and Hour Division, Room S-3502, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone: 202-523-8353. This is not a toll free number.

SUPPLEMENTARY INFORMATION: During this comment period, the Wage and Hour Division will solicit the views of and engage in discussions with interested parties, including business groups, labor organizations, child development and parent organizations, educators and appropriate officials of federal, state and local government.

At the close of the comment period, the Wage and Hour Division plans to publish a new proposed revision of the Full-Time Student Regulations, which would supercede the proposal published on July 16, 1982.

Signed at Washington, D.C. this 3rd day of August 1982.

William M. Otter,

Administrator, Wage and Hour Division.

[FR Doc. 82-21368 Filed 8-5-82; 8:45 am]

BILLING CODE 4510-27-M

29 CFR Part 570

Fair Labor Standards Act; Child Labor Regulation No. 3; Employment of 14- and 15-Year-Olds

AGENCY: Wage and Hour Division, ESA, Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On July 16, 1982, a notice of proposed rule was published in the **Federal Register** (47 FR 31254-59) advising that the Wage and Hour Division was proposing revisions of Child Labor Regulation 3, issued under

the authority of sec. 3(1) of the Fair Labor Standards Act. This Regulation provides standards for the employment of minors 14 and 15 years of age in occupations other than manufacturing and mining during periods which will not interfere with their schooling and under conditions which will not interfere with their health or well-being.

This notice provided that comments regarding the proposed rulemaking must be received on or before August 16, 1982.

Due to the degree of interest that has been expressed in this proposed revision, the Administrator of the Wage and Hour Division is extending the period for written comments an additional 150 days to January 13, 1983.

DATE: The time for submitting written comments in triplicate is hereby extended to receipt on or before January 13, 1983.

ADDRESSES: Comments should be addressed to William M. Otter, Administrator, Wage and Hour Division, Attention: Gordon L. Claucherty, Room S-3030, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Gordon L. Claucherty, Wage and Hour Division, Room S-3030, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone 202-523-7478.

SUPPLEMENTARY INFORMATION: During this comment period, the Wage and Hour Division will solicit the views of and engage in further discussions with interested parties, including business groups, labor organizations, child development and parent organizations, educators, and appropriate officials of federal, state, and local government.

The discussions will pertain to the need to update Child Labor Regulation 3 and to the relationship of both the current regulation and any proposed changes to other relevant factors, such as:

(1) The need for safe and healthy employment opportunities for 14- and 15-year-olds;

(2) the educational needs of these teenagers;

(3) the relationship of employment opportunities for these teenagers to their personal development; and

(4) the effect of any specific change in the current regulation on the employment opportunities of workers other than these teenagers.

At the close of the comment period, the Wage and Hour Division plans to publish a new proposed revision of Child Labor Regulation 3 which would supercede the proposal published July 16, 1982.

Signed at Washington, D.C., this 3rd day of August 1982.

William M. Otter,

Administrator, Wage and Hour Division.

[FR Doc. 82-21369 Filed 8-5-82; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket Nos. 2706-121 and 2706-122]

Foreign Fishing

Correction

In FR Doc. 82-21078 appearing on page 33722 in the issue for Wednesday, August 4, 1982, third column, third line under **DATES:** "August 15, 1982." should read "August 19, 1982."

BILLING CODE 1505-01-M

50 CFR Part 674

[Docket No. 2708-124]

High Seas Salmon Fishery off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed modification of rule.

SUMMARY: NOAA proposes to modify a rule implementing the Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175 Degrees East Longitude. The rule is necessary to clarify the authority of the Director, Alaska Region, National Marine Fisheries Service, NOAA, to limit the harvest of chinook salmon to the appropriate level within the optimum yield range. The Regional Director would be able to prohibit fishing for any or all species of salmon in all or part of the management area by publishing a notice of closure.

DATE: Comments on the proposed rule must be submitted on or before September 20, 1982.

ADDRESS: Comments should be addressed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert McVey, 907-586-7221.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175 Degrees East Longitude (FMP) governs this fishery in the fishery conservation zone (FCZ) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP provides for inseason adjustments by field order to season and area openings and closures. Implementing rules at 50 CFR 674.23 specify the procedures and criteria for issuance of field orders by the Secretary of Commerce and NOAA.

As currently stated in 50 CFR 674.23(a)(2), one criterion for issuance of a field order is as follows:

> Following consultation with ADF&G [Alaska Department of Fish and Game, the Secretary shall prohibit fishing for one or more species of salmon in all or part of the management area if such prohibition is necessary to prevent the total harvest of any species of salmon for the year from exceeding the maximum amount of the optimum yield for that species that is specified in the FMP.

This provision was promulgated in 1981 (46 FR 57299, November 23, 1981; 46 FR 33042, June 26, 1981) to ensure that the upper end of the optimum yield (OY) range for chinook salmon—272,000 fish—was a ceiling on the harvest of that species. The provision made it mandatory for the Regional Director to prohibit fishing if necessary to prevent the chinook salmon harvest from exceeding the maximum OY value.

In previous years, the chinook salmon OY had not been applied as an absolute limit on the harvest of that species, and in fact, the chinook harvest substantially exceeded the maximum of the OY range in 1979. The North Pacific Fishery Management Council (Council) and NOAA concluded that allowing the OY to be exceeded in that manner was contrary to conservation requirements for chinook salmon. The Council and NOAA do not, however, intend that the OY range for any species of salmon harvested in Southeast Alaska other than chinook salmon be treated as a harvest ceiling or quota. Chinook salmon is presently the only salmon species harvested in the Southeast Alaska salmon fisheries for which a single harvest guideline or quota for the combined catch from all commercial fisheries and gear types is utilized as a conservation and management mechanism. Coho, pink, sockeye, and chum salmon are all managed to prevent overfishing and to achieve adequate spawning escapement by means of inseason modifications to time and area limitations according to the authority and criteria in § 674.23(a)(1).

Some members of the public have interpreted 50 CFR 674.23(a)(2) to limit the authority of the Regional Director to prohibit fishing solely to situations in which this was necessary to prevent the harvest from exceeding the upper end of

the OY range. The regulation was not intended to have this effect. Although the Regional Director is required to prohibit fishing to prevent the chinook harvest from exceeding the upper end of the OY range, the Council intends that the Regional Director have the discretion to modify season dates to achieve any specific harvest level within the OY range that he determines to be necessary for conservation and management of chinook salmon. In other words, while the chinook salmon harvest may not exceed the OY range, it may be managed to fall anywhere within that range.

The discretion to manage for any harvest level within the OY range is inherent in the specification of OY for chinook in the FMP. Had the FMP intended that the harvest of chinook salmon could be curtailed only to prevent exceeding the maximum OY value, as some suggest, the OY presumable would have been specified as a single number. This was not done. Instead, the FMP was approved by the Council and NOAA with OY stated as a range, indicating that the desired harvest level could be anywhere within that range. Indicative of the Council's and NOAA's intent in this regard is the decision to manage the 1982 chinook salmon fishery for a harvest of 255,500 fish, roughly the midpoint of the OY range of 243,000–272,000 fish (See 47 FR 20830, May 14, 1982, for an explanation of the basis for this decision). In making this decision, the Council indicated its belief that this harvest level of 255,500 chinook is within the purview of the previous decision to establish the OY range at 243,000–272,000 fish, and that no amendment to the FMP is needed.

Therefore, NOAA proposes to modify the language in § 674.23(a)(2) to clarify the authority of the Regional Director to manage the chinook salmon fishery for a harvest level anywhere within the OY range. This criterion supplements those in § 674.23(a)(1), which also authorizes inseason management actions through field orders. The language of § 674.23(a)(2) would also be modified to clarify that OY ranges for the other species of salmon will not be treated as quotas.

Classification

The Assistant Administrator has determined that this proposed rule is necessary and appropriate for the conservation and management of salmon resources in the FCZ off Alaska, and that the action is consistent with the national standards of the Magnuson Act, other provisions of the Magnuson Act, and other applicable law.

An environmental impact statement is not required under the National Environmental Policy Act because the proposal is within the scope of the actions considered in the final environmental impact statements for the FMP and both Amendments Numbers 1 and 2, which are on file with EPA.

A Regulatory Impact Review (RIR)/ Regulatory Flexibility Analysis (RFA) was prepared on Amendment 2 to the FMP which established the current chinook OY range of 243,000–272,000. This document may be obtained from the Regional Director at the above address. The RIR/RFA considered alternatives to the OY, including harvest levels ranging from 200,000–320,000, and specifically analyzed a harvest level of 256,000. Therefore, that RIR covers this proposed regulation, which allows the Regional Director to fix the harvest level at any value from 243,000 to 272,000 fish. The socioeconomic analysis in the RIR/ RFA was based upon an average 1980 ex-vessel price of $2.25 per pound for chinook salmon. Current 1982 early season prices for chinook are generally at or around $2.75 per pound, with the average 1982 ex-vessel price expected to occur within the range of $2.60 to $3.00 per pound. Based on these price projections, the nominal ex-vessel impact of a 12,500 fish reduction in the chinook salmon troll landings (assuming average chinook weighs 16 pounds) from the 1981 catch level is expected to range between $520,000 and $600,000. This represents slightly less than 5 percent of the total ex-vessel value of the 1982 chinook salmon harvest guideline of 255,500 fish. Therefore, the Administrator of NOAA has determined that this proposed rulemaking is not a "major rule" requiring a regulatory impact analysis under criteria specified in Executive Order 12291.

The RIR/RFA prepared on Amendment 2 also covers these regulations for purposes of the Regulatory Flexibility Act. Assuming the 12,500 chinook salmon catch reduction was evenly distributed throughout the troll fleet, 965 power trollers (to whom permits have been issued thus far in 1982) would incur a nominal gross economic loss of between $465 and $537 per troller, (calculated with the assumption that the power trollers will take 86.3 percent of the catch as they did in 1981), while 2,137 hand trollers (to whom permits have been issued thus far in 1982) would incur a nominal gross ex-vessel reduction in earnings of between $33 and $38 per troller (assumption that hand trollers will take 13.7 percent of the catch as they did in 1981).

This proposed rule neither contains a collection of information requirement nor involves any agency in collecting or sponsoring a collection of information within the meaning of the Paperwork Reduction Act of 1980.

List of Subjects in 50 CFR Part 674

Administrative practice and procedure, Fish, Fishing, Reporting requirements.

Dated: August 2, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 674 is proposed to be amended as follows:

PART 674—HIGH SEAS SALMON FISHERY OFF ALASKA

1. The authority citation for Part 674 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 674.23, paragraph (a)(2) is revised to read as follows:

§ 674.23 Modifications of time and area limitations.

(a) * * *

(1) * * *

(2) Following consultation with ADF&G, the Secretary shall prohibit fishing for any or all species of salmon in all or part of the management area if such a prohibition is necessary to prevent the total harvest of chinook salmon for the fishing season from exceeding either the maximum amount of the optimum yield or any other value within the optimum yield range for chinook salmon that the Secretary determines to be necessary for the conservation and management of chinook salmon. The Secretary will do this by issuing a field order in accordance with paragraph (b) of this section.

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[FR Doc. 82-21348 Filed 8-5-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 152
Friday, August 6, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement Regarding Historic Preservation Program Plan and Treatment of Historic Properties Affected by Bureau of Reclamation's Central Arizona Project, Arizona and New Mexico

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to Sec. 800.8 of the regulations, "Protection of Historic and Cultural Properties" (36 CFR 800) with the Bureau of Reclamation, Department of the Interior, the Arizona State Historic Preservation Officer, and the New Mexico State Historic Preservation Officer concerning several features of the Central Arizona Project and the effects these may have on historic properties. The Agreement establishes a procedure to develop an overall plan which creates the context and process for ensuring adequate consideration is given to historic and cultural properties in planning and carrying out the several features of the project. The Agreement is proposed in order to meet the requirements of Section 106 and 110(f) of the National Historic Preservation Act (16 U.S.C. 470).

DATES: Comments Due: September 7, 1982.

ADDRESS: Comments should be addressed to Executive Director, Advisory Council on Historic Preservation, 730 Simms Street, Room 450, Golden, Colorado 80401.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Riggle, Archeologist, Western Division of Project Review, Advisory Council on Historic Preservation, 730 Simms Street, Room 450, Golden, Colorado 80201, 303–234–4946.

Dated: July 30, 1982.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 82–21325 Filed 8–5–82; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Construction and Operation of Mexican Fruit Fly Rearing Facility, Moore Air Base, Texas; Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS) has prepared an environmental assessment for the construction and operation of a Mexican Fruit Fly Rearing Facility at Moore Air Base near Mission, Texas. The proposed facility will be a one story building with 12,000 square feet of space. The proposed facility will be used to rear up to 20 million Mexican fruit flies weekly. The Mexican fruit flies reared at the proposed facility will be sterlized and released as part of the APHIS program to control or eradicate the Mexican fruit fly in Texas and to prevent its movement into California.

This assessment indicates that the proposed project will not cause any significant local, regional or national impacts on the environment. Based upon this Finding Of No Significant Impact (FONSI) it has been determined that the preparation and review of an Environmental Impact Statement (EIS) is not needed for this project.

Copies of this environmental assessment have been sent to the Environmental Protection Agency, appropriate State and local agencies, and other interested parties.

FOR FURTHER INFORMATION CONTACT: Copies of the environmental assessment are available upon request from Mr. Frank Kotulak, Head, Energy and Environmental Staff, APHIS, U.S. Department of Agriculture, Room 267, 6505 Belcrest Road, Hyattsville, MD 20782, Area Code (303) 436–8958.

SUPPLEMENTARY INFORMATION: The primary purpose for constructing the proposed facility is to produce a sufficient number of sterile flies for release in order to control or eradicate the Mexican fruit fly in Texas and prevent its movement into California. The Mexican fruit flies reared and sterilized at this facility will be released along the U.S./Mexican border principally in Cameron and Hidalgo Counties in south Texas, and in the Tijuana area of northwest Mexico.

The proposed facility is intended to replace an existing Mexican fruit fly rearing facility in Monterrey, Mexico, where the maximum production is only 7 million flies per week. When the new facility is completed, the existing Monterrey facility will be released to the Mexican Government.

In order to prevent the accidental release of fertile Mexican fruit flies or eggs, several precautions will be taken. All entrances to the areas where the flies are reared will have air locks or air screens and some entrances will have both. All exhaust ducts from the building will have filters. Any fertile eggs that may be in the solid wastes will be destroyed by the pressure involved in pelletizing the wastes and if necessary the wastes will be heated to a temperature sufficient to destroy the fertile eggs.

The flies reared at the proposed facility will be sterilized by exposing them to radioactive material contained in an irradiator. The irradiator planned for use at the proposed facility has been approved by the Nuclear Regulatory Commission, and it will be routinely inspected by the USDA Radiological Safety Staff. All Federal Regulations governing shipment and operation of the irradiator will be complied with.

The environmental assessment indicates that the proposed facility will have a minor localized impact on air quality from diet dust, vermiculite dust, hydrocloric acid fumes, and exhaust fumes from vehicles arriving and departing at the proposed facility. The proposed facility will not generate any offensive odors or high noise levels, and it will not have any significant impact on water quality or the local road system. Moore Air Base has its own water and sewage disposal systems that will be able to handle the liquid waste generated at the proposed facility. Several options are being considered for

the disposal of solid wastes from the proposed facility. If no other disposal methods can be found, the wastes will be disposed of in an approved landfill. The proposed facility will be compatible with existing buildings and current activities conducted at Moore Air Base, and it will have a positive social and economic impact on Hidalgo and surrounding communities. No endangered species of fish, wildlife or plants will be affected by the proposed facility. There are no properties at Moore Air Base either on or eligible to be placed on the National Register of Historic Places.

Implementation of the proposed project will not be initiated until September 7, 1982.

Done at Washington, D.C., this 29th day of July 1982.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 82-21281 Filed 8-5-82; 8:45 am]

BILLING CODE 3410-34-M

National Monitoring and Residue Analysis Laboratory Complex, Gulfport, Mississippi; Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS) has prepared an environmental assessment for the construction of three laboratory buildings to replace obsolete structures at its Gulfport, Mississippi, National Monitoring and Residue Analysis Laboratory (NMRAL). A fourth laboratory building has already been constructed and was the subject of an environmental assessment prepared in July 1980. In addition to discussing the environmental impacts of constructing three new buildings, this assessment analyzes the cumulative impacts of all four buildings. Each of these four new single story buildings will be approximately 3,000 square feet in size. The environmental assessment indicates that the proposed project will have the same insignificant local, regional and national impacts on the environment as the existing facilities. Based upon this Finding of No Significant Impact (FONSI) it has been determined that the preparation and review of an Environmental Impact Statement (EIS) is not needed for this project.

Copies of this environmental assessment have been sent to the Environmental Protection Agency and appropriate State and local agencies.

FOR FURTHER INFORMATION CONTACT: Copies of this environmental assessment are available upon request from Mr. Frank Kotulak, Head, Energy and Environmental Staff, USDA, APHIS, ASD, E&ES, 6505 Belcrest Road, Room 267, Hyattsville, MD 20782, Area Code (301) 436-8958.

SUPPLEMENTARY INFORMATION: The three new laboratories to be constructed, and the laboratory previously built will be used for analyzing a variety of materials including plant and animal matter, air, and soil samples to determine the type and amount of pesticide or other chemical residues present. These activities are currently conducted by NMRAL in several existing buildings. The purpose of constructing the new laboratories is to provide effective operational facilities which meet all current safety and health standards. No new activities will be conducted or additional personnel employed at the new laboratories. When the new laboratory buildings are completed, the existing buildings will be demolished.

The environmental assessment indicates that the laboratories will have a minimal impact on air and water quality, utilities and traffic. There will be no applicable odor or noise from the laboratory. Small quantities of hazardous chemicals will be safely stored in the laboratories and will be disposed of at an on-site incinerator. Non-hazardous liquid wastes will be discharged into the municipal sewer system, and non-hazardous solid wastes will be collected by a commercial refuse service. No endangered fish, wildlife or plant species will be affected by the proposed construction.

Consultation with the Mississippi State Historic Preservation Officer indicates that no buildings at NMRAL, including those to be demolished, are on or eligible to be placed on the National Register of Historic Places.

Implementation of the proposed project will not be initiated until September 7, 1982.

Done at Washington, D.C. this 29th day of July 1982.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 82-21281 Filed 8-5-82; 8:45 am]

BILLING CODE 3410-34-M

Smuggled Bird Quarantine Facility, Moore Air Base, Texas; Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS) has prepared an environmental assessment for the construction of a new 4,000 square foot building to replace the existing Smuggled Bird Quarantine Facility at Moore Air Base, Texas. A new building is required because it would be uneconomical to renovate the existing deteriorated wooden structure now being used.

This assessment indicates that the proposed project will not cause any significant local, regional, or national impacts on the environment. Based upon this Finding Of No Significant Impact (FONSI) it has been determined that the preparation and review of an Environmental Impact Statement (EIS) is not needed for this project.

Copies of the environmental assessment have been sent to the Environmental Protection Agency; State and local agencies.

FOR FURTHER INFORMATION CONTACT: Copies of the environmental assessment are available upon request from Mr. Frank Kotulak, Head, Energy and Environmental Staff, APHIS, ASD, U.S. Department of Agriculture, Room 267, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, Area Code (301) 436-8958.

SUPPLEMENTARY INFORMATION: The environmental assessment indicates that the proposed project will have a minimal impact on traffic and air and water quality. There will be no significant social or economic impact. The odors and noise will be minor and will not be detectable outside of Moore Air Base. All wastes will be disposed of through the on-site sewage treatment facility and incinerator. Since Moore Air Base is a federally owned facility, the proposed project is exempt from any local zoning codes. Moore Air Base is not located in a 100 year flood plain. No endangered species of fish, wildlife, or plants will be affected by the proposed project. There are no recorded properties in the vicinity of Moore Air Base that are on or eligible to be placed on the National Register of Historic Places.

Implementation of the proposed project will not be initiated until September 7, 1982.

Done at Washington, D.C., this 2nd day of August 1982.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 82-21362 Filed 8-5-82; 8:45 am]

BILLING CODE 3410-34-M

Federal Grain Inspection Service

Request for Applicants for Designation To Perform Official Services in the Geographic Area Currently Serviced by Lima Grain Inspection Service and Virginia Department of Agriculture and Consumer Services

Correction

In FR Doc. 82-20587 beginning on page 32971 in the issue of Friday, July 30, 1982, made the following correction.

On page 32972, first column, under "DATE", change "September 13, 1982" to read "August 30, 1982".

BILLING CODE 1505-01-M

Forest Service

[Applications W-25717, W-25718, W-25719, W-32064, W-32065, W-32067, W-32068, W-32506 and W-60638]

Campbell and Converse Counties, Wyoming; Application of Coal Unsuitability Criteria for Preference Right Lease

Pursuant to the Federal Coal Leasing Amendments Act of 1976, as amended (90 Stat. 1083-1092) and Title 43, Subpart 3461, of the Code of Federal Regulations (43 CFR 3461), the Forest Service, Department of Agriculture, has applied Coal Unsuitability Criteria to lands under Preference Right Lease Application (PRLAS) in which the United States own an interest in the coal resource within the Thunder Basin National Grassland of the Medicine Bow National Forest. These criteria were applied as part of the Medicine Bow National Forest land and resource planning process to identify lands suitable for consideration for issuance of a coal lease.

The coal unsuitability criteria were applied to nine preference right lease applications involving a total of 4,075 acres. Approximately 3,175 acres are National Forest System lands with the remaining 900 acres in private ownership. The nine PRLAS are located approximately 50 to 70 miles north of Douglas, Wyoming, in the Powder River coal region.

Copies of the Unsuitability Report and Report Findings are available for public review at the Thunder Basin District Office in Douglas, Wyoming and in the Forest Supervisor's Office of the Medicine Bow National Forest in Laramie, Wyoming.

Comments on the Draft Coal Unsuitability Assessment must be sent to the Forest Supervisor, Medicine Bow National Forest, 605 Skyline Drive, Laramie, Wyoming 82070 by September 3, 1982 to be considered. For further information contact Charles Tankersley at the above address or call (307) 745-8971.

Dated: July 23, 1982.

Donald L. Rollens,

Forest Supervisor, Medicine Bow N.F.

[FR Doc. 82-21062 Filed 8-5-82; 8:45 am]

BILLING CODE 3410-11-M

Coal Leasing Within San Juan National Forest; Archuleta, La Plata, and Montezuma Counties, Colorado; Application of Coal Unsuitability Criteria

Pursuant to the Federal Coal Leasing Amendments Act of 1976, as amended (90 Stat. 1083-1092) and Title 43, Subpart 3461, of the Code of Federal Regulations (43 CFR 3461), the Forest Service, Department of Agriculture, has applied coal unsuitability criteria to lands in which the United States owns an interest in the coal resource within the boundary of the San Juan National Forest. These criteria were applied as part of the San Juan National Forest land and resource planning process to identify lands suitable for further consideration for coal leasing. If and when the Bureau of Land Management proposes to lease specific tracts which are suitable, mineral leasing direction in the Forest Plan will be applied.

The coal unsuitability criteria were applied to a total of 75,380 acres. One area consists of 80 acres approximately three miles east of Mancos, Colorado, and the other area of 75,300 acres is approximately one mile east of Bayfield, Colorado.

A preliminary coal unsuitability assessment is in Appendix I of the Draft Environmental Impact Statement on the Proposed San Juan National Forest Land and Resource Management Plan. Copies are available for public review at Forest Service offices in Durango, Bayfield, Pagosa Springs, and Mancos, Colorado. Detailed maps and information are available at the Forest Supervisor's Office in Durango, Colorado.

Comments on the draft coal unsuitability assessment must be sent to Forest Supervisor, San Juan National Forest, Federal Building, 701 Camino Del Rio, Durango, Colorado 81301, by October 15, 1982, to be considered. For further information, contact Richard A. Hepler at the above address or call (303) 247-4874.

Dated: July 27, 1982.

Paul C. Sweetland, Jr.,

Forest Supervisor, San Juan National Forest.

[FR Doc. 82-21285 Filed 8-5-82; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Waimanalo Watershed, Hawaii; Availability of a Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: Francis C. H. Lum, responsible Federal official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of Hawaii, is hereby providing notification that a record of decision to proceed with the installation of the Waimanalo Watershed project is available. Single copies of this record of decision may be obtained from Francis C. H. Lum at the address shown below.

FOR FURTHER INFORMATION CONTACT: Francis C. H. Lum, State Conservationist, Soil Conservation Service, 300 Ala Moana Blvd., Rm. 4316, Honolulu, Hawaii, 96850, telephone (808) 546-3165.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A-95 regarding State and Local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: July 23, 1982.

Francis C. H. Lum,

State Conservationist.

[FR Doc. 82-21138 Filed 8-4-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended July 30, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board

may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
July 27, 1982.....	40881	Air Florida, Inc., 3900 N.W. 79th Avenue, Miami, Florida 33166. Application of Air Florida, Inc. pursuant to Section 401(b) of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its certificate of public convenience and necessity for Route 197–F authorizing it to engage in air transportation with respect to persons, property and mail on a new segment as follows: Between the terminal point Miami, Florida, the coterminal points Madrid, Spain, and Tel Aviv, Israel. Air Florida requests it be authorized to integrate this new segment authority with its other authority on Route 197–F and its certificate authority on Routes 253 and 261 subject, to such route authority integration being consistent with applicable local regulations and bilateral agreements. Conforming Applications, motions to modify scope, and Answers may be filed by August 24, 1982.
July 29, 1982.....	40884	Pan American World Airways, Inc., Pan Am Building, 200 Park Avenue, New York, New York 10166. Application of Pan American World Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations for renewal of its certificate of public convenience and necessity for Route 133 at Madrid, Spain and Casablanca, Morocco, on a permanent basis or alternatively for a five year period. Conforming Applications, motions to modify scope, and Answers may be filed by August 26, 1982.
July 30, 1982.....	40888	International Air Service Company, Ltd. d/b/a/ IASCO, c/o Thomas J. McGrew, Arnold & Porter, 1200 New Hampshire Ave., N.W., Washington, D.C. 20036. Application of International Air Service Company, Ltd. d/b/a IASCO pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations request authority to engage in interstate and overseas air transportation and for a determination of fitness under Part 204 of the Board's Economic Regulations to establish that IASCO is fit, willing and able to perform interstate and overseas air transportation as requested. Conforming Applications, motions to modify scope, and Answers may be filed by August 27, 1982.
July 30, 1982.....	40889	Pan American World Airways, Inc., Pan Am Building, 200 Park Avenue, New York, New York 10166. Application of Pan American World Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations request that its Certificate of Public Convenience and Necessity for Route 132 be renewed in its entirety on a permanent basis. Alternatively, Pan Am requests that the Board renew Pan Am's authority on Segments 1, 3, 4, and 5 for a period of five years as follows: *Segment 1*—Barcelona, Spain; Nice, France; Rome, Italy. *Segment 3*—Miami, Florida; San Juan, Puerto Rico; The Azores, Lisbon, Portugal; Madrid, Spain; Rome, Italy. *Segment 4*—Houston, Texas; Ireland (including Dublin); The United Kingdom (including Northern Ireland); Paris, France; Belgium; The Netherlands; Germany; Poland; Leningrad and Moscow, U.S.S.R.; Czechoslovakia; Austria; Hungary; Rome, Italy; Yugoslavia; Rumania; Bulgaria; Athens, Greece; Turkey; Egypt; Lebanon; Syria; Iraq; Iran; United Arab Emirates; Kuwait; Oman; Bahrain; Afghanistan; Pakistan; and India. *Segment 5*—New Orleans, Louisiana; Tampa, Florida; Amsterdam, The Netherlands; Frankfurt, Germany; Paris, France. Pan Am requests that conditions 14 and 15 on its Certificate for 132, be deleted. By these conditions, Pan Am's authority at the above named points will expire on January 26, 1983. Pan Am pursuant to Part 377 of the Board's Special Regulations and the provisions of 5 U.S.C. Section 558(c), intends to invoke the automatic extension provisions so as to permit continued authority beyond the current expiration date of January 26, 1983 should the Board not act by that date. Conforming Applications, motions to modify scope, and Answers may be filed by August 27, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-21309 Filed 8-5-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Frozen Concentrated Orange Juice From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers or exporters of frozen concentrated orange juice from Brazil receive subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of frozen concentrated orange juice are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before August 30, 1982 and we will make ours on or before October 7, 1982.

EFFECTIVE DATE: August 6, 1982.

FOR FURTHER INFORMATION CONTACT:

Paul Nichols, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230, (202) 377–1768.

SUPPLEMENTARY INFORMATION:

Petition

On July 14, 1982 we received a petition from counsel for Florida Citrus Mutual, a non-profit cooperative marketing association, on behalf of the U.S. industry of growers and processors of oranges for production of fresh fruit and processed juices. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petitioner alleges that manufacturers, producers, or exporters of frozen concentrated orange juice in Brazil receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (the "Act"), and that these imports are materially injuring, or threatening to materially injure, a U.S. industry. Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation, and an injury determination is required.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner suporting these allegations. We have examined the petition on frozen concentrated orange juice, and we have found that it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers or exporters in Brazil of frozen concentrated orange juice receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by October 7, 1982.

Scope of the Investigation

The product covered by this investigation consists of oranges used for processing into frozen concentrated orange juice. This product is currently classifiable under item number 165.35, *Tariff Schedules of the United States.*

Allegations of Subsidies

The petition alleges that the manufacturers, producers or exporters in Brazil receive the following benefits from the Government of Brazil that constitute subsidies: preferential financing, tax benefits from federal income tax on corporate profit, and exemption from federal and state value-added tax.

Petitioner is currently attempting to ascertain the status of a suspended export tax program, which allegedly will cause immediate or severe injury to the U.S. orange industry if the program is reinstituted.

Notification to ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 30, 1982 whether there is a reasonable indication that imports of frozen concentrated orange juice from Brazil are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will continue according to the statutory procedures.

Dated: August 2, 1982.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-21353 Filed 8-6-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determination; Prestressed Concrete Steel Wire Strand From France

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Affirmative Countervailing Duty Determination.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in France of prestressed concrete steel wire strand ("PC strand"), as described in the "Scope of the Investigation" section of this notice. The estimated net subsidy is 15.578 percent *ad valorem.* Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the product subject to this determination which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on these products in the amount equal to the estimated net subsidy. If this investigation proceeds normally, we will make our final determination by October 15, 1982.

EFFECTIVE DATE: August 6, 1982.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-1276.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in France of PC strand, as described in the "Scope of the Investigation" section of this notice. For purposes of this investigation, the following programs are preliminarily found to be subsidies:

- Export credit insurance.
- Preferential financing, including equity infusions.
- Governmental assistance channeled through parent company.
- Certain labor-related aid.

We estimate the net subsidy to be 15.578 percent *ad valorem.*

Case History

On March 4, 1982, we received a petition from counsel for six domestic manufacturers of PC strand: American Spring Wire Corporation, Armco Inc., Bethlehem Steel Corporation, Florida Wire & Cable Company, Pan American Ropes, Inc. and Shinko Wire America, Inc., filed on behalf of the U.S. industry producing PC strand. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in France of PC strand. Critical circumstances were not alleged.

We reviewed the petition, and on March 24, 1982, determined that an investigation should be initiated (47 FR 13397). In our notice, we stated that we expected to issue a preliminary determination by May 28, 1982. We subsequently determined that the investigation was "extraordinarily complicated", as defined in section 703(c) of the Act, and postponed our preliminary determination to no later than August 2, 1982 (47 FR 21114).

Since France is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission ("ITC") of our initiation. On April 19, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring or threatening material injury to a U.S. industry.

We presented questionnaires concerning the allegations to the Delegation of the Commission of the European Communities and to the government of France at its embassy in Washington, D.C. On June 8 and 9, 1982, we received responses to the questionnaires. We received a supplemental response on June 30, 1982.

Scope of the Investigation

The merchandise covered by this investigation is PC strand from France. The term "prestressed concrete steel wire strand" covers wire strand of steel other than stainless steel for prestressed concrete, as currently provided for in item number 642.1120 of the *Tariff Schedules of the United States Annotated.*

Trefileries et Cableries Chiers Chatillon Gorcy ("CCG") and Fils et Cables d'Acier de Lens ("FICAL") are the only known producers in France of PC strand exported to the United States. The period for which we are measuring subsidization is calendar year 1981.

Analysis of Programs

In their responses, the government of France and the Delegation of the Commission of the European Communities provided data for the applicable periods. Additionally, we received information from CCG, which produced and exported PC strand to the U.S. in 1981. FICAL did not submit a response to the questionnaire because it did not export PC strand to the United States.

Throughout this notice, general principles applied by the Department of Commerce to the facts of the current investigation of PC strand are described in detail in Appendix A of this notice. Appendix A is identical to Appendix B published on June 17, 1982, with our

notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium" (47 FR 26300). Based upon our analysis to date of the petition and responses to our questionnaires, we preliminarily determine the following.

I. Programs Preliminarily Determined To Be Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in France of PC strand under the programs listed below.

A. *Export Credit Insurance.* The Compagnie Francaise d'Assurance pour le Commerce Exterieur ("COFACE") is a government corporation that provides export insurance to cover commercial, political, exchange rate and inflation risks. In reviewing the 1980 annual report (the most recent report available), we found that while the company showed an overall profit, its insurance activities operated at a deficit. Revenues from financial and real estate investments allowed COFACE to offset the operating deficit on insurance. Our preliminary review of the annual reports for 1976–1979 revealed a pattern of yearly operating deficits on insurance activities that were offset by revenues from investments. This pattern of operating deficits on insurance activities indicates that COFACE does not charge premiums sufficient to cover long-term operating costs and losses. We preliminarily determine that this is an export subsidy within the meaning of the countervailing duty law.

A portion of CCG's U.S. accounts receivable is insured against commercial risk. Using data contained in COFACE's 1980 profit and loss statement as the best information available, we calculated the 1980 operating deficit on COFACE's insurance activities as a percentage of net premiums received. By applying this percentage to the premiums paid by CCG to COFACE on shipments of PC strand to the United States in 1981, we calculated the total benefit to CCG on insured exports to the United States. We found a subsidy of 0.274 percent *ad valorem* on PC strand exports to the United States by allocating the total benefits received by CCG over the total value of its PC strand exports to the United States in 1981.

B. *Preferential Financing Including Equity Infusions.* Petitioners alleged preferential financing in the form of low-interest loans and loan guarantees, and the conversion of accumulated debt into equity.

A number of French government organizations have issued loans and/or loan guarantees to the French steel industry. The majority of these loans were provided by the following institutions:

• *Fonds de Developpement Economique et Social ("FDES").* Created by Parliament in 1955, FDES lends funds to government-owned and privately held corporations for industrial development or relocation of facilities to further the government's regional development objectives. Loan applications are filed with the Ministry of the Economy and Finance, but the decision to issue a loan rests with the FDES Board, which is composed of government ministers whose agencies are involved in economic policy. Usually, loans are secured by a mortgage or a pledge. The source of FDES loan funds is a line item in the national budget. Because FDES provides loans on a regional basis, we consider these loans to be subsidies within the meaning of the countervailing duty law.

• *Credit National.* Credit National is a government credit institution with special legal status, which issues loans to French industry, particularly the steel industry. Loan funds are raised by offering bonds in the public marketplace. Credit National also acted as the conduit through which FDES loans were granted to the steel industry. In addition, the French government, either directly or through Credit National, guarantees some loans to the steel companies. Until 1979, a yearly guarantee fee averaging 0.5 percent of the principal was paid by the company receiving a loan guarantee. The current charge is 0.25 percent of the principal of the loan. Credit National provided certain loans to CCG for the stated purpose of increasing exports. We preliminarily determine that the loans intended to increase exports are export subsidies within the meaning of the countervailing duty law. Other loans, not specifically directed to exports, are also considered countervailable because they are offered to a specific industry at preferential rates.

• *Local Economic Development Agencies.* CCG, its predecessors, or its parent received loans for the promotion of energy economies and exportation from LORDEX, CENTREST and SUDEST, which are local economic development agencies. Absent sufficient information to determine whether any of the loans were solely for the purposes of energy conservation, we preliminarily determine that these preferential loans are export subsidies within the meaning of the countervailing duty law.

Petitioners have alleged that CCG is uncreditworthy. CCG incurred financial losses in each year of its existence. The 1981 CCG annual report reveals unfavorable ratios of total debt to total equity, and current assets to current liabilities. In addition, CCG has received various forms of financial assistance from its parent, Usinor. This assistance includes: capitalization of debt owed to Usinor, conversion of accounts payable to Usinor from CCG into interest-free loans, and other short-term loans from Usinor. Therefore, on the basis of these and other factors, we preliminarily determine that CCG has been uncreditworthy since its formation in 1977.

We treated CCG's preferential loans and equity infusions in the following ways:

1. *Preferential Loans and Loan Guarantees Issued Prior to CCG's Formation in 1977.* The subsidy rates for preferential loans and loan guarantees made prior to the end of 1976 were calculated according to the loan methodology in Appendix A for companies considered creditworthy. These loans were both export oriented and non-export oriented. Using the prescribed methodology, we compared what CCG would have paid to normal commercial lenders in the year the loan was made with what the company actually paid on preferential loans in that year. To determine what CCG would have paid to normal commercial lenders, we used as a benchmark the average annual yield to maturity of newly issued corporate bonds on the Paris Bourse. For non-export oriented loans we allocated the 1981 subsidy amount over the value of CCG's domestic steel production for 1981. For export oriented loans, we allocated the 1981 subsidy amount over the value of CCG's exports of all steel products for that year.

We computed a subsidy of 0.040 percent *ad valorem* for domestic subsidy loans and we computed a subsidy of 0.072 percent *ad valorem* for loans considered to be export subsidies for a total subsidy of 0.112 percent *ad valorem.*

2. *Preferential Loans and Loan Guarantees Made After 1976.* The subsidy rates for preferential loans and loan guarantees issued since the formation of CCG in 1977 were calculated according to the loan methodology in Appendix A for companies considered uncreditworthy. We treated the loans essentially as equity investments and compared CCG's rate of return in 1981 with the average rate of return on equity investment in France. The subsidy equalled this rate of return shortfall, times the original loan principal. We subtracted from this

subsidy value the principal and interest payments made by CCG on these loans in 1981.

To prevent countervailing a higher amount than if the loan had been an outright grant to the company, we compared the 1981 benefit of these loans calculated under the methodology used for loans to uncreditworthy companies, with the result calculated under the grant methodology described in Appendix A.

Since the latter caution resulted in a lower subsidy, we appropriately capped the subsidy calculated pursuant to the methodology for loans to uncreditworthy companies for the reasons described in Appendix A. Because all these loans were export subsidies, we divided the total 1981 countervailable benefit by the value of CCG's 1981 steel exports. We calculated a subsidy of 2.698 percent *ad valorem.*

C. *Assistance Channeled Through Usinor.* CCG has received preferential loans and infusions of capital from the French government channeled through Usinor. Usinor is at least 90 percent owned by the French government. In the recent "Affirmative Preliminary Countervailing Duty Determinations on Certain Steel Products from France" (47 FR 26315), we found that Usinor had received substantial subsidies from the government. Insofar as we have been able to determine that certain benefits bestowed on Usinor by the French government have been passed through to CCG, we have treated such benefits as countervailable subsidies to CCG.

Our determination that benefits to Usinor pass through to CCG is based on an examination of the relationship between the two companies. Usinor is CCG's principal supplier of wire rod used in the manufacture of PC strand. There is evidence of a close working relationship between the two companies. CCG's profit and loss statements are incorporated in Usinor's annual reports. Benefits to Usinor from the French government appear to have been transferred to CCG by means of preferential loans and capital infusions. Since 1979, Usinor has aided CCG in the following manner:

- Capitalization of debt owed to Usinor into equity in CCG,
- Conversion of accounts payable to Usinor by CCG into interest free loans, and
- Provision of short term loans at preferential rates.

In addition, Usinor's assistance to CCG cannot be considered consistent with commercial considerations since, as noted above, we consider CCG uncreditworthy since its formation in 1977. Accordingly, we have preliminarily determined that countervailable benefits transferred from Usinor to CCG should be treated essentially as equity under the methodology set forth in Appendix A. We calculated the benefit to CCG and allocated it over CCG's total steel production in 1981. This resulted in an *ad valorem* subsidy of 12.481 percent.

D. *Certain Labor-Related Aid.* French corporations have statutory and contractual obligations to their employees in case of interruption or cessation of employment. The government provides assistance to relieve steel companies of labor-related obligations mandated by law. We consider this a subsidy.

At this time, we are not fully aware of the extent or duration of CCG's responsibilities under the law. We will seek additional information.

CCG has also received grants from the French government for the training of employees and for amelioration of working conditions. Under the aides a des actions de formation ("FAAF") program, CCG received a grant to defray a portion of the expense of training workers. CCG also received a grant under the aides pour l'amelioration des conditions de travail ("FACT") program which covered a portion of the costs of studies and investments aimed at improving employees' working conditions. Because the amount of the grants received under these programs in 1981 was less than one percent of the total value of production and was used for items which would normally be expensed in one year (see Appendix A), we allocated the grants over the total value of CCG's 1981 steel production. This calculation yielded a subsidy of 0.013 percent *ad valorem.*

II. Programs Preliminarily Determined Not To Be Subsidies

We preliminarily determine that subsidies are not being provided to manufacturers, producers, or exporters in France of PC strand under the following programs.

A. *Indirect Subsidy Through Benefits to Wire Rod Production.* Petitioners allege that CCG receives benefits indirectly when it purchases subsidized wire rod from Usinor. Wire rod is the principal input into PC strand. CCG's response indicates that it pays a higher price for wire rod to Usinor than to its other suppliers. It appears that while Usinor has used other means to transfer benefits to CCG, transfer prices for wire rod are a means for extracting funds from CCG rather than for transferring subsidies. In general, we believe a subsidy on an input to a product under investigation is transferred to that product only when it can be established that the input is provided to the producer of the product under investigation on preferential terms which afford a competitive advantage. Consequently, since CCG apparently does not purchase wire rod from Usinor at preferential prices, we preliminarily determine that these purchases do not constitute a countervailable benefit.

B. *Assistance to Coal Supplies.* The government of France, which directly or indirectly owns all French coal producers, makes available to Charbonnages de France ("CDF") such assistance as may be necessary to equalize the selling price of coal produced in France with the world market price for each type of coal. Even though the French coal industry appears to be subsidized, we do not consider this assistance to confer a countervailable benefit on the French steel industry for the following reasons. The apparently subsidized coal companies are unrelated to the steel companies, and their coal transactions are conducted at arm's length. Moreover, the French steel companies purchase coal at similar or even lower prices without regard to French government assistance to the coal industry. Over 75 percent of the French steel industry's coal requirements during 1981 were supplied by non-French sources, including the United States, which accounted for 25 percent of all coking coal and coke utilized. In addition, CCG does not produce raw steel for which supplies of coal, coking coal, coke and iron ore are required.

III. Programs Preliminarily Determined Not To Be Utilized

We preliminarily determine that the following programs which were described in the notice of "Initiation of Countervailing Duty Investigation" are not utilized by the manufacturers, producers, or exporters in France of PC strand.

A. *European Coal and Steel Community ("ECSC") and European Investment Bank ("EIB") Loans and Loan Guarantees.* PC strand is not an ECSC product because it is not listed in Annex I of the Treaty Establishing the European Coal and Steel Community. Accordingly, CCG is not eligible to receive loans and loan guarantees from these institutions.

B. *ESCS Labor Related Aid.* Petitioners allege the existence of ECSC aid for steel worker retraining to permit the absorption of redundant workers, job creation, resettlement allowances

and layoff payments. As explained above, PC strand is not eligible for ECSC benefits.

C. *Export Financing.* In France, exports may be financed or guaranteed through the Commission Interministerielle des Garanties et du Credit au Commerce Exterieur and the Banque Francaise du Commerce Exterieur. At this time, we have no evidence that CCG availed itself of these programs.

D. *1978 Rescue Plan.* Petitioners allege that producers, manufacturers, or exporters in France of PC strand received a benefit through the recapitalization of the French carbon steel industry under the 1978 Rescue Plan. CCG's response to our questionnaire stated that it was not affected by the 1978 Rescue Plan, and we have no evidence to indicate that CCG participated in the 1978 Rescue Plan.

IV. Programs for Which Additional Information is Needed

At this time, we do not have sufficient information to determine whether these programs are providing manufactures, producers, or exporters in France of PC strand benefits which constitute subsidies within the meaning of the countervailing duty law. We will seek additional information regarding these programs before reaching a final determination

A. *Regional Development/Regional Anti-Pollution Agencies.* Created by Law No. 64–1245 of 1964, these regional agencies provide incentives for the installation of anti-pollution devices. The agencies collect dues for their operation and in return award "bonuses" and loans to combat pollution. CCG has received a few small grants and loans from such agencies. Due to insufficient information both on the availabity of this assistance within and across regions, and on the operating income and expenses of these agencies, we are unable to determine at this time if the grants and loans received by CCG are countervailable.

B. *Loans from Nationalized Banks.* CCG's predecessors and/or its parent received loans prior to 1977 from Societe General and Banque Nationale de Paris, which are nationalized banks. At this time we have insufficient information to determine whether these banks are providing loans which constitute a subsidy within the meaning of the countervailing duty law. We will seek additional information about these loans before reaching a final determination.

Verification

In accordance with section 776(a) of the Act, we will verify all the information used in making our final determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of PC strand from France which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond, for each such entry of the merchandise in the amount of 15.578 percent *ad valorem.*

This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an admiistrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m on September 1, 1982, at the U.S. Department of Commerce, Conference Room A, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) The reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by August 25, 1982. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within thirty days of this notice's publication, at the above address and in at least ten copies.

Dated: August 2, 1982.

Judith Hipple Bello.

Acting Deputy Assistant Secretary for Import Administration.

Appendix A

Several basic issues are common to many of the countervailing duty investigations of certain steel products, initated by the Department of Commerce (the "Department") on February 1, 1982; *e.g.*, government assistance through grants, loans, equity infusions, and research and development projects. This Appendix describes in some detail the general principles applied by the Department when dealing with these issues as they arise within the factual contexts of these cases.

Grants

Petitioners allege that respondent foreign steel companies have received numerous grants for various purposes. Under section 771(5)(B) of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1677(5)(B)), domestic subsidies are countervailable where they are "provided or required by government action to a *specific* enterprise or industry, or group of enterprises or industries" (emphasis added).

The legislative history of Title VII of the Act states that where a grant is "tied" to—that is, bestowed expressly to purchase—costly pieces of capital equipment, the benefit flowing from the grant should be allocated over the useful life of that equipment. A subsidy for capital equipment should also be "front loaded" in these circumstances; that is, allocated more heavily to the earlier years of the equipment's useful life, reflecting its greater commercial impact and benefit in those years.

In the past we have allocated the face value of the grant, in equal increments, over the appropriate time period. For large capital equipment, we used a period of half the useful life of the equipment purchased with the grant. In each year we countervailed only that year's allocated portion of the total grant. For example, a hypothetical grant of $100 million used to purchase a machine with a 20-year life would have been countervailed at a rate of $10 million per year (allocated over the appropriate product group) for 10 years, beginning in the year of receipt.

This allocation technique has often been criticized for not capturing the entire subsidy by ignoring the time value of money. It has been argued that $100 million today is much more valuable to a grant recipient than $10 million per year for the next 10 years, since the present value of the latter is considerably less than $100 million. We agree, and are now changing our methodology of grant subsidy calculation to reflect this agreement. So long as the present value (in the year of grant receipt) of the amounts allocated over time does not exceed the face value of the grant, we are consistent with both our domestic law and international obligations because the amount countervailed will not exceed the total net subsidy.

Present value is calculated using a discount rate. We considered using each company's weighted cost of capital at the time of the

grant receipt as the appropriate measure of the time value of its funds. However, we lacked sufficient information to do so for these preliminary determinations. Instead we used the national cost of long-term corporate debt as a substitute measure of a company's discount rate. We welcome additional information or comments on this estimate between the preliminary and final determinations.

For costly pieces of capital equipment, we believe that the appropriate time period over which to allocate the subsidy is its entire useful life. In the past, we allocated the subsidy over only half the useful life in order to front load the countervailing duties in order to comply with the legislative intent of the Act. However, so long as we allocate the subsidy in equal nominal increments over the entire useful life, it will still be effectively front loaded in real terms since money tomorrow is less valuable than money today.

For these steel investigations we have allocated a grant over the useful life of equipment purchased with it when the value of that grant was large (in these investigations, greater than $50 million), and specifically "tied" to pieces of capital equipment.

Where the grant was small (less than one percent of the company's gross revenues or, where we do not know gross revenues, less than one percent of the company's total value of 1981 steel production) and "tied" to items generally expensed in the year purchased (*e.g.*, wages, purchases of materials), we have allocated the subsidy solely to the year of the grant receipt.

All other grants—the vast majority of those involved in these investigations—will be allocated over 15 years, a period of time reflecting the average life of capital assets in integrated steel mills in the U.S. The 15-year figure is based on Internal Revenue Service studies of actual experience in integrated mills in the U.S. Furthermore, we understand that a 15-year period is also used in some of the countries involved in these investigations. We are using this time period as the best available estimate of the average steel asset life worldwide. We could not calculate the average life of capital assets on a company-by-company basis, since different accounting principles, extraordinary write-offs, and corporate reorganizations yielded extremely inconsistent results. For example, the average life of one steel company's assets, as indicated on its books, increased from 3 years to 22 years within 3 years.

We do not distinguish grants bestowed expressly to cover operating losses from other "untied" grants. Since grants used to cover operating losses often keep the company in business and are frequently quite large, their real effects extend for a considerable period of time. It is appropriate to allocate them over a number of years.

Loans and Loan Guarantees for Companies Considered Creditworthy

In these investigations, various loan activities give rise to subsidies. The most common practices is the extension of a loan at a preferential interest rate where the government is either the actual lender or directs a private bank to lend at a preferential rate. The subsidy is computed by comparing what a company would pay a normal commercial lender in principal and interest in any given year with what the company actually pays on the preferential loan in that year. We determine what a company would pay a normal commercial lender by constructing a comparable commercial loan at the appropriate market rate (the "benchmark"). If the preferential loan is part of a broad, national lending program, we use a national average commercial interest rate as our benchmark. If the loan program is not generally available—like most large loans to respondent steel companies—the benchmark used instead, where available, is the company's actual commercial credit experience (*e.g.*, a contemporaneous loan to the company from a private commercial lender). If there were no similar loans, the national commercial rate is used as a second-best alternative.

For loans denominated in a currency other than the currency of the country concerned in an investigation, the benchmark is selected from interest rates (either national or company-specific, as appropriate) applicable to loans denominated in the same currency as the loan under consideration.

After calculating the payment differential in each year of the loan, we then calculate the present value of this stream of benefits in the year the loan was made, using a national cost of long-term corporate debt in that year as the discount rate. In other words, we determine the subsidy value of a preferential loan as if the benefits had been bestowed as a lump-sum grant in the year the loan was given. We determine how much less valuable money tomorrow is than money today by applying a discount rate. We are using the national cost of long-term corporate debt for the year in which the loan was given as this discount rate. This amount is then allocated evenly over the life of the loan, with one exception. Where the loan was given expressly for the purchase of a costly piece of capital equipment, the present value of the payment differentials is allocated over the useful life of the capital equipment concerned.

For loans not tied to capital equipment with mortgage-type repayment schedules, this methodology results in annual subsidies equivalent to those calculated under the previous Department policy of considering the difference in total repayments in each year of a loan's lifetime to be the subsidy *in that year*. For loans with constant principal repayments (*i.e.*, declining total repayments), loans with deferral of repayments, and loans for costly capital equipment, the present value method results in even allocations of the subsidy over the relevant period. This effectively front loads countervailing duties on these loan benefits in the same manner as grants are front loaded.

A loan guarantee by the government constitutes a subsidy to the extent the guarantee assures more favorable loan terms than for an unguaranteed loan. The subsidy amount is quantified in the same manner as for a preferential loan.

If a borrowing company preferentially received a payment holiday from a government lending institution or from a private lender at government direction, an additional subsidy arises that is separate from and in addition to the preferential interest rate benefit. The subsidy value of the payment holiday is measured in the same manner as for preferential loans, by comparing what the company pays versus what it would pay on a normal commercial loan in any given year. A payment holiday early in the life of a loan can result in such large loan payments near the end of its term that during the final years the loan recipient's annual payments on the subsidized loan may be greater than they would have been on an unsubsidized loan. By reallocating the benefit over the entire life of the loan through the present value methodology described above, we avoid imposing countervailing duties in excess of the net subsidy.

Loans and Loan Guarantees for Companies Considered Uncreditworthy

In a number of cases petitioners have alleged that certain respondent steel companies were uncreditworthy at the time they received preferential loans or guarantees, and that they could not have obtained any commercial loan without government intervention.

Where the company under investigation has a history of deep or significant continuing losses, and diminishing (if any) access to private lenders, we generally agree with petitioners. In these situations neither national nor company-specific market interest rates provide an appropriate benchmark since, by definition, an uncreditworthy company could not receive loans on these terms without government intervention. Nor have we been able to find any reasonable and practical basis for selecting a risk premium to be added to a national interest rate in order to establish an appropriate benchmark for companies considered uncreditworthy. Therefore, we have treated loans to an uncreditworthy company as an equity infusion by the government. We believe this treatment is justified by the great risk, very junior status, and low probability of repayment of these loans. To the extent that principal and/or interest is actually paid on these loans, however, the subsidy (which is calculated using our equity methodology, *infra*) is reduced dollar for dollar in the year of repayment. Moreover, in no case do we countervail a loan subsidy to a creditworthy or uncreditworthy company more than if the government gave the principal as an outright grant.

Equity

Petitioners allege that government purchases of equity in respondent steel companies constitute a countervailable subsidy equal to the entire amount of the equity purchased. Many respondents claim that such equity purchases are investments on commercial terms, and thus are not subsidies to these companies.

It is well settled that government equity ownership *per se* is not a subsidy. Such ownership is a subsidy only when it is on terms inconsistent with commercial considerations. An equity subsidy potentially arises when the government makes equity

infusions into a company which is sustaining deep or significant continuing losses. If such losses have been incurred, then we consider from whom the equity was purchased and at what price.

If the government buys previously issued shares on the market and not directly from the company, there is no subsidy to the company. This is true no matter what price the government pays, since any overpayment benfits only the prior shareholders and not the company.

If the government buys shares directly from the company (either a new issue or corporate treasury stock) and similar shares are traded in a market, a subsidy arises if the government pays more than the prevailing market price. To avoid any effect on the market price resulting from the government's purchase or speculation in anticipation of such purchase, we used for comparison a market price on a date sufficiently preceding the government's action. Any amount of overpayment is treated as a grant to the company.

It is more difficult to judge the possible subsidy effects of direct government infusions of equity where there is no market price for the shares since they were untraded (as where, for example, the government is already sole owner of the company). As a matter of principle, government equity participation can be a legitimate commercial venture. Often, however, as in many of these steel cases, equity infusions follow massive or sustained losses and are part of national government programs to sustain or rationalize an industry which otherwise would be noncompetitive. We respect the government's characterization of its infusion as equity in a commercial venture. However, to the extent in any year that the government realizes a rate of return on its equity investment less than the average rate of return on equity investment for the country as a whole (thus including returns on both successful and unsuccessful investment), its equity infusion is considered a subsidy. Under no circumstances do we countervail an amount greater than that which is calculated treating the government's equity infusion as an outright grant.

Forgiveness of Debt

Where we have found that the government has forgiving an outstanding debt obligation, we have treated this as a grant to the company equal to the outstanding principal at the time of forgiveness. Where outstanding debt has been converted into equity (*i.e.*, the government receives shares in the company in return for eliminating debt obligations of the company), a subsidy may result. The existence and extent of such subsidies are determined by treating the conversions as an equity infusion in the amount of the remaining principal of the debt. We then calculate the value of the subsidy by using our equity methodology, *supra*.

Coal Assistance

Petitioners alleged that respondent steel companies outside the Federal Republic of Germany that buy German coal benefit from assistance given by the German government to German producers of coking coal. The issue of indirect subsidization of German steelmakers through the German government's assistance to German coking coal is considered separately in the "Notice of Preliminary Affirmative Countervailing Duty Determinations; Certain Steel Products from the Federal Republic of Germany," appearing in this issue of the **Federal Register.**

In the absence of special circumstances, a party receiving a benefit on the production of its merchandise is not assumed to share that benefit with an unrelated purchaser. It is in the commercial interest of a firm receiving a subsidy not to share the benefits with customers, but rather to pass it on to its shareholders in the form of greater net earnings. This view has previously been expressed by the Department in the "Preliminary Affirmative Countervailing Duty Determination; Sodium Gluconate from the European Economic Community" (46 FR 45975).

Moreover, the German government's assistance to its coking coal industry does not reduce the price of German coking coal *below* the world price. So long as non-German coal can be purchased more cheaply, we see no measurable benefit to non-German steelmakers who purchase German coal, whether or not it is subsidized.

Petitioners argue that German assistance to its coking coal industry exerts downward pressure on the price of coal in all markets in which German coking coal is sold. If so, we believe that such downward pressure would affect the price of coal worldwide, and thus benefit all steelmakers everywhere. Similarly, if the German coking coal assistance were eliminated and if German coal mine operations consequently were reduced or ceased, any consequent rise in the price of coking coal would likely have worldwide effects and thus affect steelmakers everywhere. There we do not accept petitioners' contention that the FRG's assistance to its coking coal industry during 1981 had a significant downward effect on the price of coking coal which preferentially benefited steelmakers purchasing German coal.

Research and Development Grants and Loans

Grants and preferential loans awarded by a government to finance research that has broad application and yields results which are made publicly available are not subsidies. Programs of organizations or institutions established to finance research on problems affecting only a particular industry or group of industries (*e.g.*, metallurgical testing to find ways to make cold-rolled sheet easier to galvanize) and which yield results that are available only to producers in that country (or a limited number of countries) confer a subsidy on the products which benefit from the results of the research and development ("R&D"). On the other hand, programs which provide funds for R&D in a wide range of industries are not countervailable even when a portion of the funds is provided to the steel sector.

Once we determine that a particular program is countervailable, we calculate the value of the subsidy by reference to the form in which the R&D was funded. An R&D grant is treated as an "untied" grant; a loan for R&D is treated as any other preferential loan.

Labor Subsidies

To be countervailable, a benefit program for workers must give preferential benefits to workers in a particular industry or in a particular region. Whether or not the program benefits specifically some workers and not others is determined by looking at both program eligibility and participation. Even where provided to workers in specific industries, social welfare programs are countervailable only to the extent that they relieve the firm of costs it would ordinarily incur—for example, the government's assumption of a firm's obligation partially to fund worker pensions.

Labor-related subsidies are generally conferred in the form of grants and are treated as untied grants for purposes of subsidy calculation. Where they are quite small and expensed by the company in the year received, we likewise allocated them only to the year received. However, where they were more than one percent of gross revenues (or, where we do not know gross revenues, one percent of the value of 1981 steel production), we allocated them over five years.

[FR Doc. 82-21352 Filed 8-6-82; 8:45 am]
BILLING CODE 3510-25-M

Stainless Clad Steel Plate From Japan; Antidumping Duty Order

AGENCY: International Trade Administration, Commerce

ACTION: Antidumping Duty Order.

SUMMARY: In separate investigations, the U.S. Department of Commerce ("the Department") and the U.S. International Trade Commission ("the ITC") have determined that stainless clad steel plate from Japan is being sold at less than fair value and that these sales are materially injuring a U.S. industry. Therefore, all unappraised entries, or warehouse withdrawals, for consumption of this merchandise made on or after March 22, 1982, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register.**

EFFECTIVE DATE: August 6, 1982.

FOR FURTHER INFORMATION CONTACT: Paul Nichols, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW.,

Washington, D.C. 20230, telephone (202) 377–1768.

SUPPLEMENTARY INFORMATION: For the purposes of this investigation the merchandise is stainless clad steel plate currently classified under item 607.94 of the Tariff Schedules of the United States.

In accordance with section 733 of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1673b), on March 22, 1982, the Department preliminarily determined that there was reason to believe or suspect that stainless clad steel plate from Japan was being sold at less than fair value (47 FR 12200). On June 3, 1982, the Department made its final determination that these imports were being sold at less than fair value (47 FR 24379).

On July 20, 1982, in accordance with section 735(b) of the Act (19 U.S.C. 1673d(b)), the ITC determined and notified the Department that such importations are materially injuring a U.S. industry.

Therefore, in accordance with section 736 of the Act (19 U.S.C. 1673e), the Department directs U.S. Customs officers to assess antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the U.S. price for all entries of stainless clad steel plate from Japan. These antidumping duties will be assessed on all of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after March 22, 1982, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**, and all future entries of said merchandise.

On or after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers deposit their estimated normal customs duties on the merchandise, an additional cash deposit of estimated antidumping duties equal to the following rates:

Stainless Clad Steel Plate—14%

This determinatation constitutes an antidumping duty order with respect to stainless clad steel plate from Japan, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). The Department intends to conduct an administrative review within twelve months of publication of this ord–er, as provided in section 751 of the Act (19 U.S.C. 1675).

We have deleted from the Commerce Regulations, Annex 1 to 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Department of Commerce Regulations (19 CFR 353.48).

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 82–21354 Filed 8–5–82; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Decision To Continue as an Active Candidate Certain Hawaiian Waters Nominated for Marine Sanctuary Designation

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atomspheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, authorizes the Secretary of Commerce, with Presidential approval, to designate certain ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological, or aesthetic values. Certain Hawaiian waters nominated in 1977 as a humpback whale marine sanctuary were included in the List of Recommended Areas (LRA) published in the **Federal Register** on October 31, 1979 (44 FR 62552) and subsequently were declared by the Assistant Administrator for Coastal Zone Management to be an Active Candidate for designation as a national marine sanctuary on March 10, 1982 (47 FR 11544). An Issue Paper was prepared and distributed by OCZM in April and public workshops were held in Hawaii to solicit further comments on the sanctuary proposal. Based on these meetings and consultation with other Federal agencies and Hawaii State officials, a decision has been made to continue as an Active Candidate the nominaton for a marine sanctuary in Hawaiian waters for the humpback whale. This announcement has no applicability to OMB Circular A–95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects.

FOR FURTHER INFORMATION CONTACT: Dallas Miner, Director, Sanctuary Programs Office, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven St., NW., Washington, D.C., 20235, (202)634–4236.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431–1434, authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as marine sanctuaries for the purposes of preserving or restoring their conservation, recreational, ecological, or aesthetic values. In December 1977, NOAA received a nomination for establishing a humpback whale marine sanctuary in waters off the Kihei coast of Maui, Hawaii. In December 1979, following placement of the site on the List of Recommended Areas (LRA), OCZM convened a panel of whale experts in Hawaii to provide a forum for further discussing and evaluating the sanctuary nomination. The majority of the panelists concluded, among their othr findings, that the designation of a marine sanctuary was "the most certain route to continuing protection of the humpback whale in Hawaiian waters." Following preliminary consultation with relevant Federal agencies, State and local authorities, and other interested parties in accordance with § 922.23(b) of the marine sanctuary program regulations, the Assistant Administrator declared the site an Active Candidate on March 10, 1982.

During April 1982, OCZM prepared and distributed an Issue Paper on the proposed marine sanctuary and, in accordance with § 922.24(a) of the marine sanctuary program regulations, conducted a series of public workshops in Hawaii. The purpose of the workshops was to assist NOAA and the State of Hawaii in their joint evaluation of the proposal. Based on the comments received at those meetings, discussions with State and local officials, and the continuing support of the Governor of Hawaii for the joint State-Federal evaluation process, the Assistant Administrator has determined to continue as an Active Candidate those waters in Hawaii currently under consideration as a Humpback Whale National Marine Sanctuary.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: August 2, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Managmenet.

[FR Doc. 82–21268 Filed 8–5–82; 8:45 am]

BILLING CODE 3510–08–M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

George Kudiavetz,

Program Manager, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

SN 6–363,425 P_0, "Fiber Optic 2 Probe." Dept. of Health and Human Services.
SN 6–112,980 (Patent 4,337,181), "Biodegradable Starch-Based Blown Films." Dept. of Agriculture.
SN 6–141,764 (Patent 4,337,763), "Illuminated Surgical Instrument." Dept. of Health & Human Services.
SN 6–153,057 (Patent 4,337,028), "Catalytic Monolith, Method of its Formulation and Combustion Process Using the Catalytic Monolith." Environmental Protection Agency.
SN 6–161,823 (Patent 4,339,295), "Hydrogel Adhesives and Sandwiches or Laminates Using Microwave Energy." Dept. of Health & Human Services.
SN 6–182,632 (Patent 4,337,196), "Method for Producing 3,6-Bis(Carboethoxyamino)-2-5-Diaziridinyl-1,4-Benzoquinone." Dept. of Health & Human Services.
SN 6–192,261 (Patent 4,338,608), "Triple-Beam Offset Paraboloidal Antenna." Dept. of Commerce.
SN 6–200,111 (Patent 4,337,129), "Regeneration of Waste Metallurgical Process Liquor." Dept. of Interior.
SN 6–229,215 (Patent 4,337,271), "Erythro-9,10-Dihydroxyoctadecan-1-OL Acetate A Boll Weevil Anti-Feedant." Dept. of Agriculture.
SN 6–233,422 (Patent 4,337,226), "Recovery of Platinum-Group Metals from Ores." Dept of Interior.
SN 6–283,596 (Patent 4,337,549), "Carcass Cleaning Unit and Containment Chamber." Dept. of Agriculture.
SN 6–291,180 (Patent 3,915,651), "Direct Digital Control Pipette." Dept. of State.
SN 6–300,834 (Patent 4,337,227), "Recovery of Chromium from Waste Solutions."

[FR Doc. 82–21290 Filed 8–5–82; 8:45 am]
BILLING CODE 3510–04–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982; Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletions from Procurement List.

SUMMARY: This action adds to and deletes from Procurement List 1982 services to be provided by and military resale commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: August 6, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square Building #5, 1755 Jefferson Davis Highway, Suite 1107, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On May 21, 1982 and June 11, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 22141 and 47 FR 25399) of proposed additions to and deletions from Procurement List 1982, November 12, 1981 (46 FR 55740).

Additions

After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following services are hereby added to Procurement List 1982:

SIC 7349

Custodial Service, Smithsonian Institution Service Center, 1111 North Capitol Street, NE., Washington, D.C.
Janitorial Service, Federal Building, Bonneville Power Administration, 1002 N.E. Holladay Street, Portland, Oregon

SIC 7399

Parts Sorting, Hill Air Force Base, Utah

Deletions

After consideration of the relevant matter presented, the Committee has determined that the military resale commodities and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following military resale commodities and services are hereby deleted from Procurement List 1982:

Military Resale Item No. and Names

No. 450, Tennis Racket, deluxe
No. 452, Tennis Racket, economy
No. 588, Opener, pour & store
No. 911, Brush, floor, plastic filament, with handle
No. 952, Brush, percolator

SIC 7358

Rebuilding Automotive Components, GSA Interagency Motor Pool, Newark, New Jersey
Rebuilding Automotive Components, GSA Interagency Motor Pool, New York, New York

SIC 7399

Assembly, Food Packet, In-flight, Individual (8970–01–060–2899)

SIC 7699

Repair & Maintenance of Electric and Manual Typewriters, Rochester, New York (including Monroe County)
Repair, Maintenance, and Overhaul of Building Maintenance, Grounds Maintenance, and Related Types of Equipment, New York City (5 Boroughs), New York, Nassau County, New York, Suffolk County, New York, Newark, New Jersey plus five miles radius.

C. W. Fletcher,

Executive Director.

[FR Doc. 82–21323 Filed 8–5–82; 8:45 am]
BILLING CODE 6820–33–M

Procurement List 1982; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1982 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 8, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square Building

#5, 1755 Jefferson Davis Highway, Suite 1107, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT:
C. W. Fletcher, (703) 557–1145

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1982, November 12, 1981 (46 FR 55740):

Class 5340

Strap, Webbing, 5340–00–543–3477

Class 7520

File, Horizontal Desk, 7520–00–139–4869, 7520–00–728–5761

SIC 7349

Janitorial/Custodial, Eisenhower Center Complex, 220 S.E. 4th Street, Abilene, Kansas

SIC 7369

Commissary Shelf Stocking, Naval Air Station, Alameda, California
Commissary Shelf Stocking, Naval Station, Long Beach, California
Commissary Shelf Stocking, U.S. Naval Station, Treasure Island, San Francisco, California
Commissary Shelf Stocking, Mare Island Naval Shipyard, Vallejo, California
Commissary Shelf Stocking, Naval Air Station, Barbers Point, Oahu, Hawaii
Commissary Shelf Stocking, Naval Base, Pearl Harbor, Hawaii
Commissary Shelf Stocking, Naval Air Station, Brunswick, Maine
Commissary Shelf Stocking, Naval Station, Roosevelt Roads, Puerto Rico
Commissary Shelf Stocking, Naval Education Training Center, Newport, Rhode Island.

C. W. Flectcher,
Executive Director.

[FR Doc. 82–21324 Filed 8–5–82; 8:45 am]
BILLING CODE 6820–33–M

COMMODITY FUTURES TRADING COMMISSION

Comex Clearing Association, Inc. Proposed Rule Changes Re Membership and Approved Original Margin Depository Requirements; Eligibility of Foreign Banks

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule amendments.

SUMMARY: The Comex Clearing Association, Inc. has submitted proposals to amend its By-Law sections pertaining to requirements for clearing membership and to approved original margin depositories. Among other things, the amendments would preclude foreign persons or entities from becoming clearing members and foreign banks from becoming approved original margin depositories. The Commodity Futures Trading Commission has determined that the proposed amendments raise potential issues with respect to discrimination against foreign banks and invites public comment on whether the proposal is the least anticompetitive means of achieving the objectives of the Act. Accordingly, the Commission finds that publication of the proposed amendments is in the public interest, will assist the Commission in considering the views of interested persons and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before September 7, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to Comex Clearing Association By-Law §§ 6.1 and 8.7.

FOR FURTHER INFORMATION CONTACT:
Wendy E. Robinson, Esq. or George L. Garrow, Jr., Esq., Division of Trading and Markets, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254–8955.

SUPPLEMENTARY INFORMATION: The Comex Clearing Association, Inc. ("Association") has submitted proposals to amend its By-Law §§ 6.1 and 8.7 for Commission approval pursuant to section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12) (Supp. IV 1981). By-Law § 6.1(a) would be altered so that a foreign person, partnership or corporation could no longer gain approval for clearing membership. The Association also proposes to raise from one to two the number of general partners or corporate officers which must be members of the Commodity Exchange, Inc., one of whom must be a shareholder of the Association, in order for a partnership or corporaton, respectively, to have and maintain clearing privileges. By an amendment of paragraph (e) of that By-Law, a clearing member would have sixty, instead of thirty, days to rectify its non-compliance should one of those Comex members die or resign from the partnership or corporation.

By-Law § 8.7 would be amended to bar foreign banks from qualifying as original margin depositories, although the Association would permit foreign banks which currently are approved as depositories to retain that status. This By-Law also would contain the requirement that an approved original margin depository have an A–1 Moody's Investor Service, Inc. rating or a P–1 Standard and Poor's Corporation rating or the equivalent financial credentials.[1]

The reasons given by the Exchange for the preclusion of foreign persons and entities from clearing member and approved original margin depository status include concerns that: (1) Their executive officers (or partners) may not be in the United States and therefore, not readily available to respond to matters requiring immediate action; (2) their assets may not be readily available to meet urgent obligations; and (3) that exchange controls and like actions of foreign governments could impede their ability to fulfill their responsibilities under the Association's rules.

The Commission has already received one unsolicited letter commenting upon the Association's proposed changes concerning foreign entities, which raises issues with respect to discrimination and the broader anticompetitive aspects of similar potential or existing rules at other contract markets or clearing associations. Because of the significance of these issues and the mandate of Section 15 of the Act, the Commission believes that publication of the proposal is in the public interest. Accordingly, the text of the proposed amendments is set forth below (additions italicized and deletions bracketed):

Section 6.1 Applications; Approval; Termination.

(a) Clearing privileges, upon application to the Corporation in the form and manner prescribed below, may be extended to (i) members of the

[1] The requirement that an approved original margin depository meet a quality standard has been prompted by the Association's opinion that size alone is not sufficient assurance of an entity's ability to meet its obligations.

Exchange who are *United States domiciliaries and* shareholders of the Corporation; (ii) partnerships *which are organized under the laws of any state and hold* [holding] partnership privileges on the Exchange, *two* [one] of whose general partners *are* [is a] members of the Exchange [and] *of whom one is* a shareholder of the Corporation; and (iii) corporations *which are incorporated under the laws of any state and hold* [holding] corporation privileges on the Exchange, *two* [one] of whose [executive] officers *are* [is a] members of the Exchange [and] *one of whom is an executive officer and is* a shareholder of the Corporation. Each application for clearing privileges shall be approved by the Board before such clearing privileges are granted.

"(e) The clearing privileges of a Clearing Member shall terminate upon the occurrence of any of the following events:

"(i) The failure of such Clearing Member to meet all the qualifications set forth in Section 6.1(a) of the By-Laws for a period of more than *sixty (60)* [thirty (30)] consecutive days.

Section 8.7. Approved Original Margin Depositories; Checks for Original Margin and Market Differences

(a) An institution which meets the requirements set forth in Section 8.7(b) and which has been designated as such by the Board may act as an approved original margin depository.

(b) To be designated as an approved original margin depository, an institution must submit an application in writing containing such information as the Board from time to time may require and must:

(i) be either a bank incorporated under the laws of the United States, a bank or trust company incorporated under the laws of the State of New York, a firm licensed as private bankers by the Banking Department of the State of New York, or a bank incorporated under the laws of a state other than New York and licensed and supervised by the Superintendent of Banking under the provisions of Article III of the New York Banking Law;

(ii) have a capital and surplus of $250,000,000 or more;

(iii) either:

A. Be rated A–1 by Moody's Investors Service, Inc. or P–1 by Standard & Poor's Corporation; or

B. In the opinion of the Board have the financial credentials of an institution having an A–1 or P–1 rating;

(iv) have an office in the Borough of Manhattan at a location satisfactory to the Board; provided, however, that the Board may require an approved original margin depository to have an office within three-quarters of a mile of the office of the Corporation at which office checks may be certified, and may limit the authority of an approved original margin depository which does not have an office within three-quarters of a mile of the office of the Corporation for the issuance of letters of credit only; and

(v) (if not a regular member of the New York Clearing House Association) have its checks accepted by the Federal Reserve Bank of New York for immediate credit with the same effect as checks drawn upon regular banking members of the New York Clearing House Association and cleared through such association.

(c) Notwithstanding the provisions of Section 8.7(b):

(i) a foreign banking corporation which was approved as an original margin depository before [the effective date of this amendment] *may continue as such as long as it meets all other requirements contained in Section 8.7(b) and Rules adopted hereunder; and*

(ii) an institution which, on February 8, 1980, was an approved original margin depository, has a capital and surplus of not less than $50,000,000 and otherwise satisfies all the requirements of Section 8.7(b) (i), (iii), (iv) and (v) may continue as an approved original margin depository until February 8, 1983. On and after February 8, 1983, such approved original margin depository must either satisfy all of the requirements of Section 8.7(b) or must otherwise guaranty or collateralize its obligations to the Corporation in a manner satisfactory to the Board.

(d) Checks from Clearing Members for original margin and checks to the order of or to make payments to the Corporation must be drawn on an approved original margin depository.

(e) The Board may require that checks must be drawn on a bank or trust company which is a member of the Federal Reserve System and/or the New York Clearing House Association. If, at the time such resolution is adopted, any of the margin depositories previously approved by the Board are not members of the Federal Reserve System and/or the New York Clearing House Association, the Board may further provide that checks drawn on such margin depositories shall be acceptable until otherwise ordered by the Board.

(f) When a check tendered to the Corporation by or on behalf of a Clearing Member has been certified, or is presented by the Corporation to the bank upon which it is drawn for certification, the Clearing Member shall not be released of his or its obligation to the Corporation thereby, any statute or rule of law to the contrary notwithstanding; and in the event that such certified check shall not be collected in full by the Corporation upon presentation thereof in due course, the Clearing Member by or on whose behalf the same was given to the Corporation shall be immediately liable to the Corporation for the amount thereof, and such amount shall be paid to the Corporation by the Clearing Member as upon a call for variation margin.

Any person interested in submitting written data, views or arguments on the proposed amendments precluding foreign individuals and entities as members and original margin depositories should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by September 7, 1982. Interested persons are also welcome to comment upon the other changes to the By-Law sections proposed by the Association. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on *August 3,* 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82–21261 Filed 8–5–82; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Proposed Consent Order With Macmillan Ring-Free Oil Company, Inc.

AGENCY: Department of Energy (DOE).

ACTION: Notice of Proposed Consent Order and Opportunity for Public Comment.

SUMMARY: The Economic Regulatory Administration (ERA) hereby gives the notice required by 10 CFR 205.199J(c) that it has signed a Consent Order with Macmillan Ring-Free Oil Company, Inc. (Macmillan). The Consent Order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations, with the exceptions noted in the Consent Order, for the period August 19, 1973 through January 27, 1981, when crude oil and petroleum products were decontrolled by Executive Order 12287, 46 FR 9909 (January 30, 1981). Macmillan has agreed to make a refund payment of $1.55 million.

As required by the regulation cited above, ERA will receive comments on the Consent Order for a period of not less than 30 days following publication of this notice. ERA will consider any comments received before determining whether to make the Consent Order final.

Comments

To be considered, comments must be received by 5:00 p.m. on the thirtieth day following publication of this notice. Address comments to: Macmillan Ring-Free Oil Company, Inc., Consent Order Comments, Economic Regulatory Administration, U.S. Department of Energy, 333 Market Street (6th Floor), San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: John M. Daley, Esq., Deputy Chief Counsel, Economic Regulatory Administration, Department of Energy, 333 Market Street (6th Floor), San Francisco, California 94105, (415) 974–7114.

Copies of the Consent Order may be received free of charge by request in person or by written request to: Macmillan Ring-Free Oil Company Inc., Consent Order Economic Regulatory Administration, U.S. Department of Energy, 333 Market Street (6th Floor), San Francisco, California 94105.

SUPPLEMENTARY INFORMATION: Macmillan is a California-based corporation which engaged in sales of crude oil and refined petroleum products during the time period August 19, 1973 through January 27, 1981. During the period price controls were in effect, Macmillan operated refineries in Carson, California and El Dorado, Arkansas, and marketed a variety of refined products primarily in those two states.

ERA conducted an audit of Macmillan's books and records relating to the firm's compliance with the Regulations. During the audit, several requlatory questions and issues were raised. One Notice of Probable Violation was issued. Except for matters specifically excluded from the proposed Consent Order (such as obligations which may arise under the final "entitlements list" for January 1981), this Consent Order resolves all civil issues, whether or not previously raised in an enforcement proceeding, concerning the allocation and sale of crude oil or refined products by the firm or its subsidiaries.

Neither ERA not Macmillan has retreated from the positions that they have taken previously on the issues addressed by this Consent Order, and each believes that its positions on these issues are meritorious. The parties desire, however, to resolve the issues raised without resort to complex, lengthy, and expensive compliance actions. ERA believes that the terms and conditions of this Consent Order provide a satisfactory resolution of disputed issues and an appropriate conclusion of its audit of Macmillan and that the Consent Order is in the public interest.

The Consent Order requires a refund payment of $1.55 million, is sixteen quarterly installment payments beginning on January 3, 1983. The funds will be held by DOE in an interest bearing escrow account. ERA will undertake to determine separately an appropriate disbursement of the funds.

The Consent Order also provides details concerning the conclusion of ERA's audit of Macmillan. Upon becoming final after consideration of public comments, the Order will be a final order of DOE to which Macmillan has waived its right to an administrative or judicial appeal. The Consent Order does not constitute an admission by Macmillan nor a finding by ERA of a violation of any federal petroleum price and allocation statutes or regulations.

Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address noted above. All comments received by 5:00 p.m. on the thirtieth day following publication of this notice will be considered by ERA before determining whether to adopt the Consent Order as a final order. Modifications of the Consent Order that, in the opinion of ERA, significantly change the terms or impact of the Consent Order will be published for comment. If, after considering the comments it has received, DOE determines to issue the Consent Order as a final order, the Consent Order will be made final and effective by notice to Macmillan. Pursuant to 10 CFR 205.199J(c), DOE will thereafter promptly publish in the **Federal Register** notice of the action taken on this Consent Order and an appropriate explanation of that action.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in San Francisco, California, this 28th day of July, 1982.

Patrick J. O'Hern,

Director, San Francisco Office, Economic Regulatory Administration.

[FR Doc. 82-21311 Filed 8-5-82; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Public Utility Regulatory Policies Act; Order on Ratemaking Standards

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice and Order Regarding Electric Utility Standards Under Sections 111 and 113, As Appropriate, of Title I of the Public Utility Regulatory Policies Act of 1978.

SUMMARY: The Western Area Power Administration (Western) is required, under title I of the Public Utility Regulatory Policies Act (PURPA), to consider and made a determination respecting implementation of the ratemaking standards set forth in sections 111 and 113 of PURPA.

Section 111 of PURPA requires that utilities with annual sales that are not for resale in excess of 500 million kilowatthours consider each standard of section 111 and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of title I. The section goes on to say that consideration shall be made after public notice and hearing.

Section 113 of PURPA requires that utilities with annual sales that are not for resale in excess of 500 million kilowatthours provide public notice and conduct a hearing respecting section 113 standards, and on the basis of such hearing either adopt each of the standards, or explain why the standard will not be adopted.

Western will make its determination, on a project-by-project basis, at the time of the rate adjustment for the appropriate project concerning whether or not it is appropriate to implement each standard of section 111. This is in accordance with PURPA section 112, subsection (c), which states that:

* * * Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall undertake the consideration, and make the determination, referred to in section 111 with respect to each standard established by section 111(d) in the first rate proceeding commenced after the date 3 years after the date of enactment of this Act respecting the rates of such utility if such State regulatory authority or nonregulated electric utility has not, before such date, complied with subsection (b)(2) with respect to such standard.

For section 113 Western is making its determination on a multiple project basis, with the publication of this **Federal Register** notice, whether or not it is appropriate to implement each standard.

FOR FURTHER INFORMATION CONTACT: Mr. Conrad K. Miller, Chief, Rates and Statistics Branch, Division of Marketing and Rates, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231–1535.

SUPPLEMENTARY INFORMATION: The Western Area Power Administration was established on December 21, 1977, under the Department of Energy Organization Act of 1977 (DOE Act). The DOE Act transferred to the Secretary of Energy all the functions of the Secretary of the Interior with respect to the power marketing functions of the Bureau of Reclamation (BuRec). Western was established to administer those functions transferred from the BuRec.

Western sells power for 11 individual power projects, each with its own rates, to customers consisting of cooperatives, municipalities, public utility districts, private utilities, Federal and State agencies, and irrigation districts. Electric power marketed by Western is generated by hydroelectric resources of the BuRec, the Corps of Engineers, and the International Boundary and Water Commission. Additionally, Western markets the United States entitlement from the large Navajo coal-fired plant near Page, Arizona, and, in northern California, markets power purchased from the most economic resources available to meet obligations of the Central Valley Project (CVP) in excess of the Federal hydroelectric resources available.

Western's obligations to its customers are contractually established and limited. Western neither claims nor accepts any utility responsibility.

In all cases, customer requirements in excess of the power and energy available to that customer from Western must be obtained by the customer from other sources (although Western may from time to time change its obligations by mutual agreement or as a result of contract terminations).

In marketing power and energy, Western is governed by several statutory requirements. Two of the more pertinent requirements are:

1. The preference clause, which appears in applicable legislation and which generally requires that preference in the sale of power and energy be given to municipalities and other public corporations or agencies, and to cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act; and

2. That revenues from the sale of power and energy have to be adequate not only to pay costs allocated to power, but also to pay a variety of certain other costs, such as irrigation aid and salinity control, which are assigned to power for payment.

In addition, it is Western's policy that power and energy will be marketed at the lowest rates consistent with sound business principles.

The majority of power sales by Western are to municipalities, cooperatives, and other resale agencies. The only ultimate consumers served by Western are irrigation and water districts and State and Federal agencies, which are generally served at transmission voltages.

Those projects for which Western markets power range in scope from a single dam and powerplant complex with little or no transmission system as part of the project (such as the Boulder Canyon and Collbran Projects) to many dams and powerplants and thousands of miles of transmission line (such as the Colorado River Storage Project, the Central Valley Project, and the Pick-Sloan Missouri Basin Program). Each of these projects or systems is a separate entity, with its own geographic area, with unique power marketing criteria, revenue requirements, and power and energy rates.

Two of the projects for which Western markets power, the Boulder Canyon Project and the Central Valley Project, have annual sales that are not for resale in excess of the 500 million kilowatthour threshold as set by title I, subtitle A, Section 102 (Coverage) of PURPA. A third project, the Pick-Sloan Missouri Basin Program, has such sales so close to the threshold amount that it too will be considered in the category of being above the threshold. For those sales that are not for resale for each of these three projects, Western is considering in this **Federal Register** notice each of the standards set forth in section 113 of PURPA.

Although not statutorily required to do so, Western has also adopted or not adopted each standard of section 113 for its sales that are for resale for those projects for which it markets power that are not within the 500 million kilowatthour threshold. Those projects are the Collbran Project, Colorado River Basin Project, Colorado River Storage Project, Falcon-Amistad Project, Fryingpan-Arkansas Project, Parker-Davis Project, Provo River Project, and the Rio Grande Project.

By **Federal Register** notice of October 20, 1980 (45 FR 69288), Western announced that it would hold a public hearing on November 6, 1980, in Denver, Colorado, to consider each of the standards established by section 111 and 113 of title I of PURPA. The **Federal Register** notice also provided for the obtainment, by interested parties, of a brochure entitled **"PRECONSIDERATION OF PUBLIC UTILITY REGULATORY POLICIES ACT, TITLE I STANDARDS."** The standards under section 111 are: (1) Cost of Service, (2) Declining Block Rates, (3) Time-of-Day Rates, (4) Seasonal Rates, (5) Interruptible Rates, and (6) Load Management Techniques. Section 113 standards are: (1) Master Metering, (2) Automatic Adjustment Clauses, (3) Information to Consumers, (4) Procedures for Termination of Electric Service, and (5) Advertising. Provision was made for the receipt of written comments by December 1, 1980. Comments, in writing, were received from nine parties.

COMPLIANCE: Western, as a nonregulated electric utility, is subject to PURPA. In compliance with the requirements of title I of PURPA, a public hearing was held and written comments solicited. In the document entitled **"PRECONSIDERATION OF PUBLIC UTILITY REGULATORY POLICIES ACT, TITLE I STANDARDS,"** hereinafter referred to as the Brochure, Western set forth its proposals regarding the applicability and as appropriate the implementation of the five standards of section 113. By this **Federal Register** notice, Western is stating its determination regarding adoption of the section 113 standards.

Discussion

Comments Received: Of the nine parties that commented, seven had no substantive disagreement with Western's proposals as presented in the Brochure. The other two commentors raised numerous points which were directed to the section 111 standards only. None of the commentors experienced any difficulty with Western's proposed actions on the section 113 standards. Each standard under section 113 (section 113(b)(1)–(5)) is defined and discussed below:

Standard 1 Defined

Master Metering. To the extent determined appropriate under section 115(d), master metering of electric service in the case of new buildings shall be prohibited or restricted to the extent necessary to carry out the purposes of this title.

Section 115(d) states that,

Separate metering shall be determined appropriate for any new building for purposes of section 113(b)(1) if:

1. There is more than one unit in such building,

2. The occupant of each such unit has control over a portion of the electric energy used in such unit, and

3. With respect to such portion of electric energy used in such unit, the long-run benefits to the electric consumers in such

building exceed the costs of purchasing and installing separate meters in such building.

Discussion of Standard 1: Western's sales are governed by the preference clause. Additionally, Western's sales to ultimate consumers are bulk sales. Thus it is not likely that owners of buildings, and even less likely that the occupants of individual units of buildings, would be eligible to purchase power from Western. Western does not now market power to individual buildings.

Standard 2 Defined

Automatic Adjustment Clauses. (1) No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of section 115(e).

Section 115(e) states that,

(1) An automatic adjustment clause of an electric utility meets the requirements of this subsection if:

(A) Such clause is determined, not less often than every 4 years, by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by the electric utility (in the case of a nonregulated electric utility), after an evidentiary hearing, to provide incentives for efficient use of resources (including incentives for economical purchase and use of fuel and electric energy) by such electric utility, and

(B) Such clause is reviewed not less often than every 2 years, in the manner described in paragraph (2), by the State regulatory authority having ratemaking authority with respect to such utility (or by the electric utility in the case of a nonregulated electric utility), to insure the maximum economies in those operations and purchases which affect the rates to which such clause applies.

(2) In making a review under subparagraph (B) of paragraph (1) with respect to an electric utility, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such electric utility relating to costs subject to an automatic adjustment clause, and shall require such reports as may be necessary to carry out such review (including a disclosure of any ownership or corporate relationship between such electric utility and the seller to such utility of fuel, electric energy or other items).

(3) As used in this subsecton and section 113(b), the term 'automatic adjustment clause' means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include an interim rate which takes effect subject to a later determination of the appropriate amount of the rate.

Discussion of Standard 2: Western currently uses automatic adjustment clauses for sales from the Boulder Canyon Project and the Navajo coal-fired plant, and for the sale to Pacific Gas and Electric Company of power purchases from the Northwest from the Central Valley Project.

Of these, only the Boulder Canyon rate involves sales that are not for resale. In addition, existing contracts provide for automatic adjustment of rates for power from the Falcon-Amistad Project beginning when the Amistad Powerplant begins commercial service, which is expected to be in 1983. The Falcon-Amistad Project rates will also not involve sales that are not for resale. Western may consider the use of such clauses in the future to recover certain variable costs for other projects, particularly costs of purchasing firming energy from other electric utilities.

All of the existing arrangements were developed prior to PURPA and are provided for in mutually agreed upon contracts. The automatic adjustment arrangements for the Boulder Canyon Project, which are the only existing arrangements involving sales which are not for resale and are subject to PURPA, are based on 1941 regulations issued pursuant to the Boulder Canyon Adjustment Act of 1940 and will continue in effect until 1987. Western is required by law to establish rates adequate to repay the projects (at the lowest rates consistent with sound business principles). Any future automatic adjustment clause would be adopted pursuant to existing rate adjustment procedures, which include public forums, opportunity for public review and comment, and final approval by the Federal Energy Regulatory Commission.

Standard 3 Defined

Information to Consumers. Each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of section 115(f).

Section 115(f) states that,

(1) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility shall transmit to each of its electric consumers a clear and concise explanation of the existing rate schedule and any rate schedule applied for (or proposed by a nonregulated electric utility) applicable to such consumer. Such statement shall be transmitted to each such consumer:

(A) Not later than 60 days after the date of commencement of service to such consumer or 90 days after the standard established by section 113(b)(3) is adopted with respect to such electric utility, whichever last occurs, and

(B) Not later than 30 days (60 days in the case of an electric utility which uses a bimonthly billing system) after such utility's application for any change in a rate schedule applicable to such consumer (or proposal of such a change in the case of a non-regulated utility).

(2) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility shall transmit to each of its electric consumers not less frequently than once each year:

(A) A clear and concise summary of the existing rate schedules applicable to each of the major classes of its electric consumers for which there is a separate rate, and

(B) An identification of any classes whose rates are not summarized.

Such summary may be transmitted together with such consumer's billing or in such other manner as the State regulatory authority or nonregulated electric utility deems appropriate.

(3) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility, on request of an electric consumer of such utility, shall transmit to such consumer a clear and concise statement of the actual consumption (or degree-day adjusted consumption) of electric energy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the utility).

Discussion of Standard 3: Western's sales to its customers are governed by the preference clause. Consumers eligible to obtain power directly from Western are effectively limited to relatively large (compared to consumers for most utilities) users such as irrigation and water districts, and Federal and State agencies. Sales to consumers are made under the terms of negotiated contracts which establish such items and information as: points and voltages of delivery, points and voltages of measurement, adjustments to meter readings, amounts of power and energy which Western will supply, the method for determining the amounts of power and energy supplied by Western (and therefore, the amounts supplied from other resources), and the applicable monetary rates. Whenever Western proposes to change its rates for any project or system, all customers of that project are notified and given ample opportunity to comment on the proposed changes, as well as an opportunity to participate in Western's formal ratesetting process.

Standard 4 Defined

Procedures for Termination of Electric Service. No electric utility may terminate electric service to any electric consumer except pursuant to procedures described in section 115(g).

Section 115(g) states that,

The procedures for termination of service referred to in section 113(b)(4) are procedures prescribed by the State regulatory authority (with respect to electric utilities for which it has ratemaking authority) or by the non-regulated electric utility which provide that:

(1) No electric service to an electric consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a

reasonable opportunity to dispute the reasons for such termination, and

(2) during any period when termination of service to an electric consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to an electric utility for which it was ratemaking authority) or nonregulated electric utility, and such consumer establishes that:

(A) He is unable to pay for such service in accordance with the requirements of the utility's billing, or

(B) He is able to pay for such service but only in installments,

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers.

Discussion of Standard 4: Western finds the "Procedures for Termination of Electric Service" to be fair and reasonable.

Standard 5 Defined

Advertising: No electric utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 115(h).

Section 115(h) states that,

(1) For the purposes of this section and section 113(b)(5):

(A) The term "advertising" means the commercial use, by an electric utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric consumers.

(B) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(C) The term "promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric utility or the selection or installation of any appliance or equipment designed to use such utility's service.

(2) For purposes of this subsection and section 113(b)(5), the terms "political advertising" and "promotional advertising" do not include:

(A) Advertising which informs electric consumers how they can conserve energy or can reduce peak demand for electric energy,

(B) Advertising required by law or regulation, including advertising required under part 1 of title 11 of the National Energy Conservation Policy Act,

(C) Advertising regarding service interruptions, safety measures, or emergency conditions,

(D) Advertising concerning employment opportunities with such utility,

(E) Advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) Any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.

Discussion of Standard 5: Western, as a Federal power marketing administration, does not engage in promotional or political advertising. The "owners" of Western are the citizens of the United States. Western believes that the costs of *any* advertising or promotional material, should anyone construe any brochure or other material produced by Western to be advertising within the meaning of this standard, should be recovered from its customers and not from the Federal taxpayers.

Determination Order by Western Area Power Administration on Public Utility Regulatory Policies Act, Title I, Section 113 Standards

Western's determination, for all of the projects for which it markets power, regarding each of the five standards is set forth as follows:

Standard 1: Western considers the Master Metering standard inappropriate for Western. The standard is not adopted.

Standard 2: Western considers the Automatic Adjustment Clauses standard inappropriate for Western. The standard is not adopted.

Standard 3: Western considers the Information to Consumers standard, in accordance with the requirements of section 115(f) of PURPA, as follows:

(a) Subsection 115(f)(1)(A) and 15(f)(2) are inappropriate for Western and are not adopted.

(b) Subsections 115(f)(1)(B) and 115(f)(3) are appropriate for Western and are adopted.

Standard 4: Western considers the Procedures for Termination of Electric Service standard appropriate for Western. The standard is adopted.

Standard 5: Western considers the Advertising standard inappropriate for Western. The standard is not adopted.

Regulatory Procedural Requirements

Determination Under Executive Order 12291

The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Western has received an exemption from sections 3, 4, and 7 of Executive Order 12291.

Regulatory Flexibility Act of 1980

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) each agency, when requried by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. Western believes that no flexibility analysis is required because: (1) This rulemaking is of particular applicability relating to services offered by Western and, therefore, is not a rule within the purview of the Regulatory Flexibility Act; and (2) the impact of this action will not cause significant economic impact to a substantial number of small entities. For the reasons cited above, the Administrator of Western hereby certifies that its action pursuant to Section 113 of PURPA is not a rule under the Regulatory Flexibility Act and will not, if promulgated, have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act (NEPA)

Western has made a determination based upon environmental considerations of the proposed rules that this action is not a significant action in the context of NEPA and that it will not lead to any significant environmental impacts.

Order

The above determinations regarding PURPA TITLE I, Section 113 standards are adopted by Western.

Issued at Golden, Colorado, July 29, 1982.

Robert L. McPhail,

Administrator.

[FR Doc. 82-21310 Filed 8-5-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59096; TSH-FRL-2184-5]

Alkyl Substituted Aromatic Amine; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim

policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by August 23, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–59096]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the public reading room E–107.

TME 82–36

Close of Review Period. September 5, 1982.

Importer. Confidential.

Chemical. (G) Alkyl substantial aromatic amine.

Use/Import. (S) Chain extender for polyurethanes. Import range: Confidential.

Toxicity Data. Acute oral LD_{50}: 1,490 mg/kg; Acute dermal: >2,500 mg/kg.

Exposure. Processing: may have potential for dermal or inhalation exposure, a toal of 4 workers, up to 3 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. Release to air 3 hrs/da, 30 da/yr and to water 1 hr/da, 30 da/yr. Disposal in plant effluent (biodegradable).

Dated: August 2, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82–21283 Filed 8–5–82; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51425; TSH–FRL 2184–4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of nineteen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 82–517, 82–518, 82–519, 82–520 & 82–521, October 20, 1982.

PMN 82–522, 82–523, 82–524, 82–525, 82–526, 82–527, 82–528, 82–529, 82–530, 82–531 & 82–532, October 24, 1982.

PMN 82–533, 82–534 & 82–535, October 25, 1982.

Written comments by:

PMN 82–517, 82–518, 82–519, 82–520, & 82–521, September 20, 1982.

PMN 82–522, 82–523, 82–524, 82–525, 82–526, 82–527, 82–528, 82–529, 82–530, 82–531 & 82–532, September 24, 1982.

PMN 82–533, 82–534, & 82–535, September 25, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51425]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the public reading room E–107.

PMN 82–517

Manufacturer. Thiokol Corporation.

Chemical. (G) Polysulfide polymer with formal and alcohol moiety.

Use/Production. (S) Printing rollers, paint spray hose liner, and auto gasoline hose. Prod. Range: 15,000–500,000 kg/yr.

Toxicity Data. Acute oral: >5 g/kg; Skin irritation: Non-irritant; Eye irritation: Non-irritant.

Exposure. Manufacture, processing, and disposal: dermal, a total of 8 workers, up to 8 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to land. Disposal by approved landfill.

PMN 82–518

Importer. Sandox Colors and Chemicals.

Chemical. (G) Metal complex substituted aromatic.

Use/Import. (S) Textile fiber colorant. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Skin irritation: Non-irritant; Eye irritation: Non-irritant; Rainbow trout LC_{50}: >100 mg/1.

Exposure. Use: dermal and inhalation, a total of 30 workers, up to 1 hr/da.

Environmental Release/Disposal. 10–100 kg/yr released to water 1 hr/da. Disposal by biological treatment system.

PMN 82–519

Importer. Confidential.

Chemical. (S) 2-(6-chloro-2-benzothiazolylazo)-5-[N-(2-cyanoethyl)-N-(n-pentyl)amino]-acetanilide.

Use/Import. (S) Industrial dyestuff. Import ranger: 1,000-15,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg; Skin irritation: Negative; Eye irritation: Negative.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 82–520

Importer. Confidential.

Chemical. (S) 2-(3-hydroxy-2-quinolinyl)-2,3-dihydro-1,3-dioxo-1H-indene-5-carboxylic acid methyl (ethyl) ester.

Use/Import. (S) Industrial dyestuff. Import range: 1,000–15,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg; Skin irritation: Slight irritant; Eye irritation: Minimal irritant.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 82–521

Importer. Confidential.

Chemical. (S) 4-(2,6-dichloro-4-nitrophenylazo)-[N-(2-cyanoethyl)-N-(2-phenoxyethyl)amino]benzene.

Use/Import. (S) Industrial dyestuff. Import range: 1,000-15,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg; Skin irritation: Slight irritant; Eye irritation: Minimal irritant.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 82-522

Manufacturer. Confidential.
Chemical. (G) Diureido silane ester.
Use/Production. (S) Additive for strength improvement of resin/mineral composites. Prod. range: Confidential.
Toxicity Data. Acute oral: males-14 ml/kg, females-13.4 ml/kg; Acute dermal: 16 ml/kg; Eye irritation: Moderate irritant; Inhalation: All rats died at 5.5 to 6.0 hrs; Ames Test: Negative; COD: 1.45; Bioxidation, % of measured COD: Day 5-52, Day 10-58, Day 15-65, Day 20-79.
Exposure. Manufacture and use: inhalation and eye, a total of 8 shift workers, up to 3 hrs/da, up to 15 da/yr.
Environmental Release/Disposal. 0.5% released to land. Disposal by plant waste treatment and landfill.

PMN 82-523

Manufacturer. Confidential.
Chemical. (G) Polyaryl sulfone ether.
Use/Production. (S) Structural polymer for thermoplastic molding and extrusion applications. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and processing: dermal, a total of 30 workers, up to 12 hrs/da, up to 60 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration and landfill.

PMN 82-524

Importer. Confidential.
Chemical. (G) Salt of polyhydroxy stearic acid and polyethyleneimine.
Use/Import. Confidential. Import range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2 ml/kg; Skin irritation, Moderate irritant; Eye irritation: Mild irritant; Skin sensitization: Sensitizer.
Exposure. None.
Environmental Release/Disposal. No release.

PMN 82-525

Importer. Confidential.
Chemical. (G) Polyester modified epoxy resin.
Use/Import. (G) Contained use. Import range: Confidential.
Toxicity Data. Acute oral: >7,750 mg/kg; Skin irritation: Mild irritant; Eye irritation: Mild irritant.
Exposure. Use: dermal, once a month.
Environmental Release/Disposal. No release.

PMN 82-526

Importer. Confidential.
Chemical. (G) Polyester modified epoxy resin.
Use/Import. (G) Contained use. Import range: Confidential.
Toxicity Data. Acute oral: >10,000 mg/kg; Acute dermal: >3,100 mg/kg; Skin irritation: Slight irritant; Eye irritation: None.
Exposure. Use: dermal, daily.
Environmental Release/Disposal. No release.

PMN 82-527

Importer. E.I. du Pont de Nemours and Company, Inc.
Chemical. (G) Titanium (4+) mixed alcohol complex.
Use/Production. (S) Catalyst component. Prod. range: 15,000-100,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and eye, minimal.
Environmental Release/Disposal. Minimal. Disposal by incineration.

PMN 82-528

Importer. Kaneka America Corporation.
Chemical. (G) Poly of aromatic aldehyde and phenolic compound.
Use/Import. Confidential. Import range: 200-700 kg/yr.
Toxicity Data. Acute oral: >15 g/kg; Ames Test: Negative.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 82-529

Importer. Confidential.
Chemical. (G) Aliphatic acid ester salt.
Use/Import. (S) Paint additive. Import range: Confidential.
Toxicity Data. Actue oral: >5,000 mg/kg.
Exposure. Manufacture and use: dermal and inhalation, a total of 1 worker.
Environmental Release/Disposal. Release to air. Disposal by incineration and landfill.

PMN 82-530

Importer. Confidential.
Chemical. (G) Acidic aliphatic ester.
Use/Import. (S) Paint additive. Import range: Confidential.
Toxicity Data. Acute oral: >5 g/kg.
Exposure. Manufacture and use: dermal and inhalation, a total of 1 worker.
Environmental Release/Disposal. Release to air. Disposal by incineration and landfill.

PMN 82-531

Importer. Confidential.
Chemical. (G) Organophosphorus compound.
Use/Import. (G) Plastic and/or functional fluid additives. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >2 g/kg; Skin irritation: Non-irritant; Eye irritiation: Moderate irritant; Inhalation: >260 mg/m^3; Ames Test (Over-all analysis): Not mutagenic; Skin sensitization: Not a sensitizer; Acute LC_{50} (Bluegill sun fish): >1,000 mg/l; Rainbow trout: >1,000 mg/l; Water flea: >1,000 mg/l.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 82-532

Importer. Confidential.
Chemical. (G) Organophosphorus compound.
Use/Import. (G) Plastics and/or functional fluid additives. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >2 g/kg; Skin irritation: Slight irritant; Eye irritation: Minimal irritant; Ames Test: Not mutagenic; Acute LC_{50} (Bluegill sun fish): >1,000 mg/1; Rainbow trout: >1,000 mg/1; Water flea; 63.1 mg/1.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 82-533

Manufacturer. Confidential.
Chemical. (G) Polyhydroxylated diisocyanate.
Use/Production. (S) Polyurethane elastomers for industrial components. Prod. range: Confidential.
Toxicity Data. Skin irritation: Slight irritation; Eye irritation: Minimal irritant.
Exposure. Manufacture, use and disposal: dermal, inhalation and eye.
Environmental Release/Disposal. Disposal by biological treatment system.

PMN 82-534

Importer. Confidential.
Chemical. (G) Polyether-urethane.
Use/Import. (G) Coating additive. Import range: Confidential.
Toxicity Data. Acute oral: >20 ml/kg.
Exposure. Use: dermal and eye.
Environmental Release/Disposal. Minimal. Disposal by approved landfill.

PMN 82-535

Manufacturer. Castal States Chemical Company.

Chemical. (G) Modified phenol formaldehyde substituted alkylamine.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 4 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land.

Dated: August 2, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-21284 Filed 8-5-82; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2185-1]

Availability of Environmental Impact Statements Filed July 26 Through July 30, 1982, Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information, 382-5075 or 382-5076.

Corps of Engineers:
- EIS No. 820473, Final, COE, CA, Sweetwater River Flood Control Channel, CA-54 and I-5 Improvements, Due: Sept. 26, 1982

Department of Commerce:
- EIS No. 820509, Final, EDA, LA, Almonaster-Michoud Infrastructure Construction, Grant, New Orleans, Due: Sept. 26, 1982

Department of Energy:
- EIS No. 820512, Draft, DOE, TN, Oak Ridge Reservation, Segment O Sale for Synfuels Facility, Roane County, Due: Sept. 20, 1982
- EIS No. 820510, Final, DOE, SEV, TN, OH, KY, Oak Ridge Incineration and Support Facilities, Construction, Due: Sept. 7, 1982

Department of Transportation:
- EIS No. 820511, Draft , FHW, IN, IN-37 Bypass Interchange Improvements at IN-45 and IN-48, Monroe County, Due: Sept. 27, 1982

Department of Housing and Urban Development:
- EIS No. 820508, Draft, HUD, MD, Germantown-Churchill Town Sector, Mortgage Insurance, Montgomery County, Due: Sept. 20, 1982
- EIS No. 820504, Final, HUD, TX, Kingsbridge Subdivision, Mortgage Insurance, Fort Bend and Harris Counties, Due: Sept. 7, 1982
- EIS No. 820507, Final, HUD, WY, Yellow Creek Ranch Development, Mortgage Insurance, Uinta County, Due: Sept. 7, 1982

Department of Agriculture:
- EIS No. 820505, Draft, AFS, MT, Lewis and Clark NF Land and Resource Management Plan, Due: Oct. 31, 1982
- EIS No. 820506, Draft, AFS, OR Mount Bailey Winter Sports Development, Umpqua NF, Douglas County, Due: Oct. 1, 1982

Amended Notice:
- EIS No. 820426, Draft, HUD, CO, Grand Junction Areawide Study, Mesa County, Due: Aug. 31, 1982[1]
- EIS No. 820240, Draft, AFS, MT, Beaverhead National Forest Land Management Plan Due: Sept. 16, 1982[2]

Dated: August 3, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-21351 Filed 8-5-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, September 2, 1982
Thursday, September 9, 1982
Thursday, September 16, 1982
Thursday, September 23, 1982
Thursday, September 30, 1982

These meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional infomation concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW, Washington, D.C. 20415 (202-632-9710).

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

August 2, 1982.

[FR Doc. 82-21129 Filed 8-5-82; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

August 2, 1982.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or

[1] Published Federal Register July 2, 1982—review extended.

[2] Published Federal Register May 7, 1982—review extended.

recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report will be published in the **Federal Register**. This information will contain the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries will be grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements. Each report description contains the following information:

—The title of the form.

—The Federal Reserve report form number, if applicable.

—How often the form must be filled out.

—Who will be required or asked to report.

—The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

—Whether small businesses or organizations are affected.

—A description of the Federal budget functional category that covers the information collection.

—An estimate of the number of responses.

—An estimate of the total number of hours needed to fill out the form on an annual basis.

—An estimate of the average number of hours per response.

—Respondent's obligation to reply.

—Confidentiality promised by agency.

—An estimate of the cost to the Federal Government.

—An estimate of the cost to the public.

—The number of forms in the request for approval.

—An indication of whether section 3504(h) of Pub. L. 96–511 applies.

—The name, address, and telephone number of the person or office responsible for OMB review, and

—An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appears below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Martha Bethea—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3181)

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880)

Forms Under Review

1. Report of Condition for Edge Act and Agreement Corporations FR 2886b

Quarterly; Semiannual; Annual—depending upon who is filing.

All Edge Act and Agreement Corporations

SIC: 605pt.

Small businesses are not affected.

General government: 1,035 responses; 5,583 hours; approximately 5 hours and 20 minutes; mandatory (12 U.S.C. 602 and 625); yes; $50,000 Federal cost; $83,745 public cost; 1 form; not applicable under § 3504(h)

This Condition Report is used to assess the effect Edge Act and Agreement corporations have on flow of funds, bank credit and monetary aggregates for monetary policy purposes and as an aid in evaluating the financial soundness, applications and examinations for supervisory purposes.

Board of Governors of the Federal Reserve System, August 2, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82–21257 Filed 8–5–82; 8:45 am]

BILLING CODE 6210–01–M

[Docket No. R–0414]

Modifications to Federal Reserve Bank Check Collection Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comments.

SUMMARY: The Board of Governors is requesting public comment on a proposal to improve the speed and efficiency of the nation's payments mechanism by modifying certain aspects of the Reserve Banks' check collection services. Public comment is requested on a proposal to extend the times during which checks may be deposited at Federal Reserve offices for collection and to implement a system-wide program to extend the time in which checks are presented to certain paying banks.

DATE: Comments must be received by September 20, 1982.

ADDRESS: Comments, which should refer to Docket No. R–0414, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, or delivered to Room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected at Room B–1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding the Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT:

Gilbert T. Schwartz, Associate General Counsel (202/452–3625), Daniel L. Rhoads, Attorney (202/452–3711), or Joseph R. Alexander, Attorney (202/452–2489), Legal Division; or Elliott C. McEntee, Assistant Director (202/452–2231), Division of Federal Reserve Bank Operations, Board of Governors of the Federal Reserve System, Washington, D.C.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 (Pub. L. 96–221) ("Act") was enacted by Congress to facilitate the development of a more efficient payments mechanism.[1] Section 107 of the Act (12 U.S.C. 248a) requires that the Federal Reserve establish a structure of fees for Reserve Bank services in accordance with pricing principles adopted by the Board. As indicated in the Act and its legislative history, promoting competition between Reserve Banks and other providers of payments mechanism services will improve the efficiency of the nation's payments mechanism and lead to a more efficient allocation of society's resources. These objectives can be accomplished through collecting checks more rapidly and through more efficient utilization of Federal Reserve resources. On December 31, 1980, the Board adopted a set of pricing principles and fee schedules for certain Federal Reserve services. Subsequently, the Board adopted fee schedules for

[1] See remarks of Senator Proxmire, 126 Cong. Rec. S 3167 (daily ed. March 27, 1980).

virtually all Reserve Bank services in accordance with the Act.

In order to improve the efficiency of the payments mechanism, the Reserve Banks are proposing modifications designed to speed up their collection of checks, which will allow depository institutions to obtain faster payment for many checks deposited with the Federal Reserve. The proposal should reduce the delay in the collection process that now exists and, as a result, depository institutions should be able to provide funds to their depositors more rapidly. In addition, increasing the speed with which checks are collected will reduce the amount of float that currently exists nationwide.[2]

In order to accomplish these results, the Reserve Banks are revising their check transportation system and are proposing an integrated plan to extend the times during which checks may be dposited at Federal Reserve offices for collection and to implement a system-wide program to extend the time in which checks are presented to paying banks. Public comment is requested in order to assist the Board of Governors in evaluating this proposal.

Change in Deposit Times

The Reserve Banks have begun implementing their improved Interdistrict Transportation System ("ITS"). This reconfigured system is designed to change the method by which checks are transported among Federal Reserve offices and reduce the time necessary to collect checks through the Federal Reserve. When fully implemented the revised ITS will enable Reserve Banks to accept certain categories of checks deposited by depository institutions at a later hour than is the case at present. Specifically, a Reserve Bank would permit a depository institution that uses its local Federal Reserve office to process or ship checks to be collected through other Federal Reserve offices to deposit such checks substantially later than at present (up to 2 to 5 hours later). As a result, depository institutions will have a longer time to process checks and receive improved availability of funds for such checks.

Currently, Federal Reserve Banks grant depository institutions the privilege of by-passing the local Federal Reserve office by shipping checks directly to other Federal Reserve offices for collection. Under the proposal, depository institutions will continue to be permitted to send checks directly to other Federal Reserve offices. Initially, because of operational adjustments necessitated by shifts in workload deposit deadlines now in effect for such arrangements will not change. However, as experience is gained with the modified procedures, Reserve Banks will consider adopting later deposit deadlines for direct sending depository institutions.

The Board believes that changing deposit deadlines will substantially enhance the check collection process and improve the efficiency of the nation's payments mechanism. Under the proposed deposit deadlines, the Board expects that 50 to 70 percent of inter-territory RCPC items[3] will be collected and credited within one day—thereby accelerating by 24 hours the collection of many of these checks. (It is estimated that the value of these checks is between $1.6 and $2.6 billion per day.) Public comment is requested regarding the possible effects these proposed changes to deposit deadlines at collecting Federal Reserve offices may have upon depository institutions and their customers.

Changes of Presentment Time

Under the Federal Reserve's current procedures, Reserve Banks present checks for payment that day to depository institutions within each Federal Reserve territory at times dependent upon distance or agreements. Typically, checks presented to institutions outside Federal Reserve office cities may be delivered up to 2:00 p.m., while checks presented to institutions through a city clearinghouse are presented in accordance with a prearranged time schedule. Presentment times now range from approximately 7:00 a.m. to 2:00 p.m. The Reserve Banks propose to establish 12:00 noon as the uniform earliest final presentment time for checks they collect drawn on institutions designated as city institutions. No change in presentment times is planned for those presentments that now occur after 12:00 noon. As a result of later presentment times, Federal Reserve offices will be able to clear checks for depository institutions that now require an additional day for clearing. In addition, some Federal Reserve float will be eliminated with later presentment, which is consistent with System efforts to decrease and ultimately eliminate float. There is no change intended in the present practice at Federal Reserve offices to make processed checks available to paying banks throughout the processing schedule, so that the number of checks to be presented at the later presentment time can be minimized. It is anticipated that a significant proportion of checks will continue to be made available through current arrangements.

Certain depository institutions located in RCPC or country areas may also receive checks later than under current arrangements. Generally, later presentment times will affect only those depository institutions that receive a substantial dollar value of checks each day and where special transportation arrangements are warranted. The proposal, therefore, would treat such institutions in the same manner as those located in Federal Reserve cities.

This proposed change does not constitute an amendment to existing Federal Reserve regulations and is taken under the rights conferred on presenting institutions under the Uniform Commercial Code.

Later presentment will assure that checks received by Reserve Banks earlier that day are collected the same day, thus speeding up the collection of checks to the benefit of depositing institutions and their customers. This proposal, which consists of later deposit hours and later presentment hours, together with the reconfigured and more efficient ITS, also assures that Federal Reserve float will not increase.

The Federal Reserve believes that the proposal, if adopted, will not result in any abrupt changes to the operations of depository institutions in the near term since adequate time will be provided to adjust to the proposed change. Reserve Banks will continue to participate in check clearings in cities in which they are located, but in addition, if the clearing hour is prior to noon, will present checks outside of the clearing until 12:00 noon. To assist paying institutions that will receive checks later than at present, Reserve Banks are considering development of special services such as providing the MICR line data from checks on computer tape and providing account information and dollar totals to payors by telephone in advance of the presentment of the checks where requested by the paying bank.

The Board has considered the impact of the proposal on smaller depository institutions.[4] Since smaller depository

[2] Float begins as soon as a transaction occurs in which a person receives a check and continues until the check is finally paid and the recipient is permitted to use the funds represented by the check.

[3] Inter-territory RCPC items are checks deposited in one Federal Reserve office territory that are drawn on a depositoy institution located in an another Federal Reserve office territory in an area designated by that Federal Reserve office as a Regional Check Processing Center.

[4] Of the approximately 22,000 institutions served by the Federal Reserve, approximately 50 percent have deposits of less than $25 million.

institutions generally are located outside of the Federal Reserve cities, they typically would not be affected by the later presentment proposal. Smaller institutions, however, should benefit from the proposed later deposit deadlines since checks they deposit for collection will be collected faster than at present. The proposal will not impose any additional reporting, recordkeeping, or other compliance requirements on smaller institutions, and will not duplicate, overlap or conflict with any federal rule or regulation.

Comment is requested on this proposal by September 20, 1982. In particular, comments are requested on the effects the proposal may have upon depositing and paying institutions. In view of the importance of the proposals to improving the efficiency of the nation's payments mechanism, the Federal Reserve intends to consider this matter promptly after the close of the comment period on September 20, 1982. Accordingly, interested parties are urged to submit their comments on these proposals promptly. Public comment is being requested on this proposal because of the interest expressed in recent weeks by depository institutions concerning the proposed changes.

The Federal Reserve Banks will, in the near future, make available the fee schedules for check services that would be in effect if these proposals are adopted. Further, the Federal Reserve expects to announce the details of the elements of its float reduction plan in the next several months. A discussion of the float reduction plan was recently issued by the Chairman of the System's Pricing Policy Committee. Additional details, such as specific proposed deposit deadlines and presentment times, may be obtained from local Federal Reserve offices.

By order of the Board of Governors of the Federal Reserve System, August 4, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-21499 Filed 8-5-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Grants for Research and Demonstrations Relating to Protection From Airborne Toxic and Carcinogenic Materials by Respiratory Protection Systems

The National Institute for Occupational Safety and Health (NIOSH) announces that competitive grant applications for basic and applied research and demonstration projects to increase protection from airborne toxic materials and carcinogens by respiratory protection systems will be accepted until November 1, 1982.

Authority

These grants will be awarded and administered by NIOSH under the legislative authorization in section 20(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(1)) and section 501 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951). Program regulations applicable to these grants are in Part 87 of Title 42, Code of Federal Regulations, "National Institute for Occupational Safety and Health Research and Demonstration Grants."

Background

The hazards of inhalation of carcinogens and other toxicants is a major concern for the modern worker. Recent concerns over carcinogens, such as vinyl chloride, asbestos, benzene, kepone, and other toxicants have focused on their inhalation hazards and necessary control technology. Clearly, engineering and administrative controls, such as improved ventilation, process changes, and good work practices, are the preferred approaches to protecting the worker from exposure to airborne toxic materials and carcinogens. However, the use of respirators is the only immediate option for situations in which engineering controls are not feasible or not yet available. The same may be true during the installation of engineering controls and during life-threating emergency situations. In addition, respirators are frequently needed to supplement inadequate engineering controls. Unfortunately, respirators may not meet the needs of the workplace.

NIOSH responsibilities include testing and certifying all types of industrial respirators, a field in which the Federal Government has been involved for more than 60 years. NIOSH has a fundamental responsibility to develop and maintain a modern certification program, advance the state of the art, and provide leadership in the respiratory protection field. It has become increasingly clear in recent years that respirator protection for workers is in need of significant improvement. Sparce research has been conducted in this field. Federal standards, originally intended only to evaluate respirators worn by miners, have not evolved into criteria adequate for evaluating respirators used in all work environments where airborne carcinogens are present.

Studies performed by NIOSH and others have confirmed that workers in many industries are not wearing the respirators that "go with the job." Workers claim that respirators are uncomfortable to wear. Whether the problem is heat buildup, strap headache, irritation behind the ears and over the jaw, ingrown hairs, inflamed sweat glands, dehydration, poor fit, difficulty in speech transmission, visibility limitation, or other problems, many workers do not wear existing respirators for extended periods of time. NIOSH believes, based on available data and the opinions of some of the nation's leading respirator experts, that the problem is one of basic design—existing respirators are not amenable to wearing for extended periods of time.

Eligible Applicants

Eligible applicants may be universities, colleges, research institutions and other public and private organizations including State and local governments. Note that for-profit institutions are now eligible for research and demonstration grants.

Available Funds

The annual amount available for grants under this announcement will be between $400,000 and $600,000. Award of grants is contingent upon availability of funds for this purpose and successful peer review, including priority ranking. Grantees will be required to cost share a minimum of 5 percent. Grants may be supported for up to 5 years, and may be renewed for an additional period, subject to the competitive review procedure and availability of funds for this announcement.

Areas of Research Interest

The goal of this announcement is to stimulate and encourage *high quality* research and demonstration grants in the areas listed below. These areas are not mutually exclusive. It is anticipated that a given research study may cut across several areas. Included under each listed area are examples of the types of studies which would be of interest to NIOSH. *They are not meant to be restrictive and are cited for illustrative purposes only:*

Engineering

- Development of new and innovative respiratory protective devices.
- Development of a positive, general, end-of-service-life indicator for sorbents of air purifying respirators.

• Research and development of test techniques and models to predict general respirator performance as well as component performance against heat, radiant heat, chemical attact, shock, vibration, etc.

• Development of an inexpensive, universal facepiece fit tester.

• Studies of methods to increase effective protection factors in the field under actual workplace conditions.

Industrial Hygiene

• Studies to evaluate the effectiveness of established respirator programs. Such studies may measure effective protection factors and develop techniques for improving long-term respiratory protection.

• Studies to define those factors of a respiratory protection program which influence worker acceptance and contained proper use of respirators.

• Studies to evaluate the significance of worker participation in respirator programs, including selection and maintenance.

• Studies to evaluate respiratory protection programs in specific occupational environments such as coke ovens coal conversion facilities.

Physiology/Ergonomics

• Studies to assess the long-term effect of breathing increased oxygen and carbon dioxide concentrations under positive pressure, particularly at moderate to high work rates for intervals of time ranging from 20 minutes to 4 hours.

Medicine

• Development of medical surveillance guidelines for respirator users.

• Development of physical and psychological predictors of user ability to wear respirators.

• Studies which quantitatively define the effects of respirator usage on specific medical conditions.

• Studies of the relationship of smoking, respirator use, and pulmonary dysfunction.

• Studies of the effects of sensory deprivation produced by respirator use.

• Studies involving motivational aspects of respirator use.

• Studies of the effects of respirator use upon certain physiological functions, such as cardivascular, pulmonary, lung clearance, and renal.

Chemistry

• Studies leading to the development of a rapid, nondestructive method for determining sorbent efficiencies which could be easily employed for routine quality control by both manufacturers and users.

• Studies which will identify and characterize the critical sorbent/contaminant interaction factors and thus allow the development of a model for effectively predicting breakthrough times for compounds, classes of compounds, combinations of contaminants, sorbent penetration, sorbent-contaminant reaction products, etc.

• Studies to develop better absorbents for general classes of contaminants and/or specific substances. Of particular interest would be sorbent materials suitable for highly polar low boiling compounds, ethylene oxide, etc.

Aerosol Science

• Development of rapid, nondestructive methods for testing filter efficiency, particularly under field conditions.

• Studies to determine whether or not existing test methods adequately predict the effectiveness of filters in removing fibrous particulates, and if not, develop an effective method.

• Development of novel, low-resistance, high efficiency particulate filtration methods.

Review Procedure and Criteria

Applications responsive to this request for applications will be reviewed by an appropriate peer review group on the basis of the following criteria:

1. Training, experience, and research competence, or promise, of the applicant(s) to carry out the proposed investigations, and the adequacy of effort (time) to be devoted to the project.

2. The scientific merit of the proposal: the questions proposed for study, the research design, the proposed methodology, the proposed methods for analysis and interpretation of data.

3. Adequacy and suitability of the existing and proposed facilities and resources.

4. Appropriateness of the requested budget relative to the work proposed.

5. Adequacy of collaborative arrangement(s), if applicable. Demonstration Grant applications will be reviewed additionally on the basis of the following criteria:

6. Degree to which project objectives are clearly established, obtainable, and for which progress toward attainment can and will be measured.

7. Availability, adequacy, and competence of personnel, facilities, and other resources needed to carry out the project.

8. Degree to which the project can be expected to yield or demonstrate results that will be useful and desirable on a national or regional basis.

9. Documentation of expected cooperation of industry, unions, or other participants in the project, where applicable.

A secondary review process will be conducted by NIOSH. Factors considered in this review include:

a. The results of the initial review.

b. The significance of the proposed research to the research program of NIOSH.

c. National needs and program balance.

d. Policy and budgetary considerations.

Applications responsive to this request for applications are *not* subject to OMB Circular A–95 Clearinghouse and/or Health Systems Agency review.

Proposals considered to be nonresponsive to the terms outlined in this request will be appropriately reassigned for review or returned to the investigator, as indicated.

Application and Award

Applications should be submitted on form PHS 398 (Revised 10/79) or PHS 5161–1 for State and local government applicants. Application kits may be obtained from Office of Grants Inquiries, Division of Research Grants, National Institutes of Health, Westwood Building, Room 448, Bethesda, Maryland 20205, Telephone: (301) 496–7441.

Care should be taken in following the instructions included with the application form, making certain to fulfill the points identified under the heading "REVIEW CRITERIA." Line 2 of the application should be checked "yes" and the title of the Request for Applications should be entered (NIOSH—Protection From Airborne Toxic and Carcinogenic Materials by Respiratory Protection systems).

An original and six copies of the application (original and two copies for State and local governments) must be received no later than November 1, 1982, in order to be considered in the February/March 1983 Study Section review. Applications received after November 1, 1982, will be returned to the originator. Completed applications must be sent or delivered to: Application Receipt, Division of Research Grants, National Institutes of Health, Westwood Building, Room 240, Bethesda, Maryland 20205.

A brief covering letter should accompany the application indicating that it is submitted in response to this Request for Applications. A carbon copy

of the covering letter along with an additional copy of the application should be sent to the Acting Chief, Grants Administration and Review Branch (see below).

FOR FURTHER INFORMATION CONTACT:

Jack E. McCracken, Ph.D., Acting Chief, Grants Administration and Review Branch, National Institute for Occupational Safety and Health, Parklawn Building, Room 8–63, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443–4493

or

Mr. Joseph West, Grants Management Officer, National Institute for Occupational Safety and Health, Parklawn Building, Room 8–23, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443–3122.

(Catalog of Federal Domestic Assistance Program No. 13.262 Occupational Safety and Health Research Grants.)

Dated: July 29, 1982.

J. Donald Millar,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 82–20577 Filed 8–5–82; 8:45 am]

BILLING CODE 4160–19–M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on July 30.

PUBLIC HEALTH SERVICE

Office of the Assistant Secretary for Health

Subject: Health Maintenance Organization Qualification and Loan/Loan Guarantee Form (0937–0103)—Extension/No Change
Respondents: Health Maintenance Organizations
OMB Desk Officer: Richard Eisinger

FOOD AND DRUG ADMINISTRATION

Subject: Food and Drug Administration FY 1982 Consumer Food Survey—New
Respondents: Individuals or households
OMB Desk Officer: Fay S. Iudicello

NATIONAL INSTITUTES OF HEALTH

Subject: Psychosocial Component of the Cooperative Study of Sickle Cell Disease—New
Respondents: Individuals
Subject: Study of the Relationship of Dietary Intake to Caries Incidence—New
Respondents: Individuals
OMB Desk Officer: Richard Eisinger

HEALTH RESOURCES ADMINISTRATION

Subject: Survey of Dental Hygiene Practice in Non-traditional Settings—New
Respondents: Dental hygienists
OMB Desk Officer: Richard Eisinger

CENTERS FOR DISEASE CONTROL

Subject: Survey of Health Education Needs and Sources—New
Respondents: Health education specialists
Subject: Worker Identified Hazard Control System—New
Respondents: Individuals
Subject: Gonococcal Pelvic Inflammatory Disease Report (CDC–73.14)—New
Respondents: State and local health departments
OMB Desk Officer: Richard Eisinger

SOCIAL SECURITY ADMINISTRATION

Subject: Reconsideration Disability Report (SSA–3441–F6)—Revision
Respondents: Individuals or households
Subject: Certification by Religious Group that it Opposes the Receipt of Benefits from a Private or Public Insurance Fund (SSA–1458)—Revision
Respondents: Individuals or households
Subject: Request for Workers' Compensation/Public Disability Information (SSA–1709 (6–82))—Revision
Respondents: Governments/businesses or other institutions
Subject: Workers' Compensation/Public Disability Benefit Questionnaire (SSA–546 (6–82))—New
Respondents: Individuals or households
OMB Desk Officer: Milo Sunderhauf

HEALTH CARE FINANCING ADMINISTRATION

Subject: Medicaid State Agency Budget Forecast and Quarterly Grant Requirements Report (HCFA–25)—Extention/No Changes
Respondents: State agencies
OMB Desk Officer: Fay S. Iudicello

OFFICE OF HUMAN DEVELOPMENT SERVICES

Subject: Statewide Information System—Adoption Assistance and Child Welfare Act Pub. L. 96–272 Sec. 427(a)(2)(A)—New
Respondents: State agencies administering Pub. L. 96–272
Subject: Case Plan Review System—Pub. L. 96–272 Sec. 475(5)—New
Respondents: State agencies administering Pub. L. 96–272
Subject: Individualized Habilitation Plans—New
Respondents: State and local agencies administering Developmental Disabilities Assistance and Bill of Rights Act Pub. L. 95–602
OMB Desk Officer: Milo Sunderhauf

OFFICE OF THE SECRETARY

Subject: Survey of Informal Caregivers—New
Respondents: Caregivers of impaired elderly persons
OMB Desk Officer: Milo Sunderhauf
Subject: Rural Development Loan Fund—Application—New
Respondents: State or local governments, businesses or other institutions
OMB Desk Officer: Richard Eisinger

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn.: (name of OMB Desk Officer)

Dated: July 29, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82–21120 Filed 8–5–82; 8:45 am]

BILLING CODE 4150–04–M

Social Security Administration

Secondary Resettlement of Cuban and Haitian Entrants From South Florida to Other Areas of the United States Excluding the State of Florida; Announcement of the Availability of Grant Funds

Closing Date. September 20, 1982. An application must be mailed or hand-delivered by the closing date. The Director invites applications for the secondary resettlement of Cuban and Haitian entrants from South Florida to other areas of the United States excluding the State of Florida.

Authorization. Authority for this activity is section 501(c) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422). No Catalog of Federal

Domestic Assistance Number has been issued.

Available Funds. It is expected that approximately $1,750,000 will be available for new grants in fiscal year 1982. Funding of these programs will be allocated on a ratio of 75% for Cuban entrants and 25% for Haitian entrants. These percentages are based on the actual number of Cuban and Haitian nationals who have entered this country since April 1980 and would qualify as entrants. Although the Director will not accept applications providing for fewer than twenty (20) entrants, he wishes to encourage the greatest possible diversity in applications. To that end, neither average award amount nor estimated number of awards has been established.

Summary. The U.S. Department of Health and Human Services, Office of Refugee Resettlement announces the availability of federal funds and competitive review procedures for the submission of applications for grant support to provide secondary resettlement for Cuban and Haitian entrants from South Florida to other areas of the United States which are less impacted by refugee and entrant resettlement. ORR will not entertain proposals which include resettlements into States or areas impacted by entrants unless the applicant can guarantee employment and service in such areas. Resettlement in Florida is not permissible under this program. Other areas experiencing entrant impact such as New York, New Jersey and California will be carefully considered before locating entrants in impacted areas of these States.

See Section X "Reference Documents."

Applications delivered by Mail. An application sent by mail must be addressed to Robert L. Robins, U.S. Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Grants Management Branch, Room 1229, Switzer Building, 330 C Street, SW., Washington, D.C. 20201. An applicant must show proof of mailing consisting of one of the following:

(1) A legible dated U.S. Postal Service postmark;

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

(3) A dated shipping label, invoice or receipt from a commercial carrier.

If an application is sent through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, the applicant should check with the local post office.

Applicants are encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications post-marked on or before September 20, 1982, shall be considered timely applications.

Applications Delivered by Hand. An application that is hand delivered must be taken to the U.S. Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Grants Management Branch, Room 1332, Switzer Building, 330 C Street, SW., Washington, D.C. 20201. Telephone: (202) 245–0403.

The Grants Management Branch will accept a hand-delivered application between 8:30 am and 5:00 pm Eastern Daylight Time daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 5:00 pm on the closing date.

Supplementary Information

I. Purpose and Scope

This notice announces the availability of funds for secondary resettlement of Cuban and Haitian entrants presently residing in South Florida into areas which have been determined as having limited entrant or refugee impact.

The purpose of these awards is to provide secondary resettlement activities for single adult entrants, with no minor children, who have been paroled by the Immigration and Naturalization Service (INS) for 18 months or more. Services provided under these grants will have the specific goal of assisting entrants to attain self-sufficiency through a resettlement experience that focuses upon permanent employment and social adaptation to the site in which the entrant is resettled. All services shall be targeted to the successful resettlement of entrants into a permanent job situation at the receiving site. Each entrant should receive services for a period not to exceed one year. This period begins at the time of the initial screening and selection and ends at the termination of the follow-up stage.

Funding of these special projects is intended to promote effective secondary resettlement and to provide needed post placement services to entrants while at the same time helping to offset the burden on South Florida created by a high concentration of entrants. Therefore, principal clients for resettlement would be those persons who have not been successfully resettled in South Florida, but who could be effectively resettled outside Florida. Entrants have to voluntarily agree to be resettled.

Applicants interested in this program should submit separate applications for Cuban and Haitian entrants.

II. Definition of Entrant

Cuban and Haitian entrants defined by Pub. L. 96–422 (Section 502(e)) as:

(1) Any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the Immigration law for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(2) Any other national of Cuba or Haiti

(A) Who—

(i) Was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

(ii) Is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or

(iii) Has an application for asylum pending with the Immigration and Naturalization Service; and

(B) With respect to whom a final nonappealable, and legally enforceable order of exclusion or deportation has not been entered.

III. Application Contents

An applying organization is requested to set forth in detail a description of the proposed project that meets the program requirements described in this notice and provides the following information. Applications will be subjected to the grant review panel evaluation process. (See Section X, Criteria for Evaluating Applications).

A. Background

1. Organizational history.

a. Philosophy.

b. Goals and objectives.

c. Advisory board members.

d. Organization chart and narrative.

e. Affiliation and/or association with other private and public organizations.

2. Administrative and financial management capability.

a. Financial management system (personnel, procurement, property management, accounting and budget control system).

b. Previous and current sources of funding:

1. Program title (grant or contract number and awarding agency).

2. Brief description of program and services.

3. Amount awarded and period of support.

4. Grant or contract officer's name and telephone number.

c. Supporting documentation and information:

1. IRS tax number (employer identification number)

2. Certificate of incorporation

3. Most recent audit report

4. Name and branch where corporation has bank account.

3. Previous refugee/entrant services delivery experience (i.e., information/referral, primary/secondary resettlement, direct services, number and type of population served, and a brief description of program and goals).

B. Project Plan and Description. The applicant should provide a detailed description of the following, observing the program requirements set forth under each item:

1. The administration and management of the project:

a. A plan for hiring and training staff, if applicable, observing the following requirements:

(1) Initial staff/client ratio at the secondary site between 1:6 and 1:10 for a period of 2 months during the entrant's initial relocation and resettlement period.

(2) Program staff who have direct contact with entrants and counselors shall have:

(a) Sensitivity to culture, race, or ethnicity.

(b) Bilingual ability (Spanish-English, Creole-English).

(c) Minimum of two (2) years of social service and/or vocational counseling experience.

b. An organizational chart of the proposed project including administrative offices, South Florida site(s), proposed secondary site(s) and their relationship.

c. Job descriptions for staff, including minimum requirements, education and prior experience in working with refugees or entrants. (If possible, include resumes of potential staff.)

d. Consultants to be used in the project, if any, stating their purpose, qualifications and previous experience with client population to be served under this program.

e. Proposed sub-grantee(s) and/or sub-contractor(s), if applicable, to be used in the resettlement effort. (Include a copy of the formal agreement or letter of intent which includes the cost and type of service(s) to be provided by a sub-grantee, background of program services history and letter(s) of support on behalf of the sub-grantee(s) and/or sub-contractor(s):

2. A flow chart or time-line diagram of project activities from start-up to phase-down through the termination of program.

3. Specific sites to be used and basis for selection.

4. Identification of client population, total number of entrants to be served and resettled by the project—specifically by site, if more than one site is proposed.

5. Recruitment and reception of entrant at primary site. (The grantee must provide short-term pre-resettlement services for those individuals who are determined to be suitable candidates for placement and who have not received, but require such services before being resettled. The grant may cover coordinating efforts to assure the adequate provision of social services to be provided through projects currently in operation or to be developed in the State of Florida, although the actual provision of such services will be through State administered social service projects.

The services to be provided by the State of Florida will include:

—Health screenings through the Dade County Department of Public Health prior to resettlement.

—Emergency shelter (one-time assistance of up to $100 through the Dade County Community Action Agency's (CAA) targeted assistance contract) for individuals selected for an awaiting secondary resettlement, contingent upon the availability of funds and, pursuant to program rules, the person never having received that service before. Emergency transportation is not provided, except for one-time bus fare furnished by CAA.

—All programs for which entrants are eligible under the state's Cuban/Haitian Entrant Program (CHEP) social services contracts (primarily social adjustment and employment) and Targeted Assistance contracts (health care, vocational ESL/employment training and emergency food and shelter). Short-term vocational ESL services through the targeted employment service contract (Targeted Assistance) is not available. Both short-term ESL and vocational ESL, if needed, will have to be provided by the grantee. Although the State of Florida will not provide psychological and vocational evaluations, they will evaluate and refer entrants who participate in the targeted employment service program to the grantee.

The State of Florida will give priority to those entrants selected for resettlement by the ORR grantees, contingent upon available slots and length of time required for program participation.

Processing for initial intake and screening will take place at a central location and, files on secondary resettlement referral cases to/from grantee will be kept at this site.

In preparing proposals, prospective applicants should consult with the State on the exact availability of such services.

a. A plan and design for the identification of entrants for resettlement, the screening and selection procedures and criteria to be used for determining suitable entrants to be resettled (i.e., biographical and psychological information, vocational skills, testing/evaluations techniques). If needed, the grantee should provide psychological and vocational evaluations.

b. A plan that demonstrates that preparation will be provided to prospective candidates for resettlement to enhance their prospects of making a successful adaptation at the secondary site.

c. A plan of program services which coordinates and assures the provision of:

(1) Orientation and acculturation counseling which focuses on self-sufficiency aspects of the resettlement, including the immediate need to take a job.

(2) Short-term survival ESL and vocational ESL (based on the entrant's preplacement needs).

(3) Short-term vocational training, if necessary.

(4) Employment orientation and counseling.

6. Methods and techniques for identifying, selecting and securing employment prior to placement. (The guarantee of a job for each entrant prior to resettlement is an absolute necessity.)

7. Arrangement for transportation to the secondary site.

8. Secondary site reception and relocation.

a. Requirements:

(1) Core services to be provided for *one month.* (The monetary relationship between the organization and the participant should not exceed one month. Furthermore, the organization should not allow the participant to develop economic dependency on the agency. Stipends shall be provided only in lieu of employment income.)

(a) Initial housing (Residence should be near area of work or with easy access to public transportation.) The grantee must conform to all *applicable* zoning ordinances, laws and codes; and local building, sanitation, health and fire codes. Documentation must be shown to ORR which confirms the adherence to

local laws, ordinances, and codes, where applicable; or grantee shall document non-applicability.

(b) Basic needs of the entrants (i.e., food and/or food allowances, stipends, essential furnishings and utensils).

(c) Initial transportation (i.e., money for public- or grantee-provided transportation).

(2) Program Services at the secondary site.

(a) Employment counseling as it relates to the individual participant's job.

(b) Participation and assistance from program staff with on-the-job training.

(c) Assistance with on-the-job problems relating to language or cultural barriers. (Terminology and vocabulary as it applies to the individual job to avoid potential problems.)

(d) Confirmation of the entrants' attendance, and quick resolution of employer/employee problems to assure the successful retention of the placed entrant.

(e) Assurance that entrants are informed of their need and/or right to join employee programs and organizations (e.g., labor unions, the Federal Bonding Program, etc.).

(f) Assurance that entrants are apprised of employer's rules and policies (e.g., leave, holidays, etc.).

(g) Identification and securement of alternative employment in the event entrants are terminated from their original employment.

(h) Orientation and acculturation counseling (especially as it relates to the employment situation).

(i) Adjustment counseling sessions for either groups or individual entrants as needed.

(j) Twenty-four hour crisis intervention and counseling.

(k) Orientation of entrants to counseling and referral services including:

(1) Health care services (public or private).

(2) English as a Second Language program (ESL).

(3) Legal services.

(l) Follow-up on the project's relocation and placement activities (not to exceed 10 months), including:

(1) Frequent documentation by the project's caseworker (counselor) and by the employer as to the entrants' time and attendance and behavior patterns.

(2) Assessment of entrants' progress to determine potential problems either in living or employment situations.

(3) The grantee must provide core and/or follow-up services for at least one year from the time of resettlement.

b. Additional information:

(1) Measures the agency will take to stabilize the resettlement through services at the secondary site.

(2) Methodology and approach to be used by program staff for contacting and counseling the employer regarding the employment needs of entrants.

9. Voluntary services and donated resources (including a letter of intent from the support agency, if possible).

10. Development of a programmatic and statistical reporting system for monitoring and assessment purposes.

11. A plan for assessing the program's degree of success, specifying the criteria to be used in evaluating project performance.

12. Development of a case record system which shall include all significant decisions and events relating to that resident, and at a minimum, the following information:

(a) Initial screening and intake form(s).

(b) Case information from referral source, if available.

(c) Case history/social history.

(d) Medical record(s) when available.

(e) Individual counseling plan or program and case notes.

(f) Evaluation and progress reports.

(g) Current employment data.

(h) Rules of the program and disciplinary policy, signed by entrant.

(i) Copy of any disciplinary action.

(j) Copy of Form I-94.

(k) Referrals to other agencies.

(l) Final report.

13. A description of the plans, if any, for continuing services or contact with clients beyond the end of support under this grant.

14. Identification of measures the agency will take to gain appropriate local and state support at the secondary sites for the resettlement efforts (i.e., civic, political, business).

15. Development and utilization of a network of community resources and services.

C. Budget

1. Line item budget of proposed activities (i.e., administration, travel, program services, etc.)

2. Line-item budget justification, including site-by-site expenditures of funds.

IV. Eligible Grantees

Participation will be limited to any public, private or governmental body which is incorporated under appropriate state law. Profit-making corporations are eligible to participate, but the application must clearly demonstrate that only costs and not profits, fees or other elements above costs have been requested.

Requests to support secondary resettlement within the State of Florida will not be considered for participation in this program.

V. OMB A-95

Applications submitted in response to this notice are subject to review by state and areawide clearinghouse under the procedures in Part 1 of Office of Management and Budget (OMB) Circular No. A-95. Since grants under this announcement must be awarded by September 30, 1982, prospective applicants should notify State and areawide clearinghouses immediately of their intention to apply. Advance notification will help ensure that clearinghouse and state agency personnel will have adequate time for application review. Applicants should indicate the announcement title, date, program name and closing date on all advance notification correspondence.

State and areawide clearinghouses which will be submitting substantive comments on applications are requested to send copies of those comments concurrently to applicants and the Office of Refugee Resettlement. The Director regrets any inconvenience this request may cause clearinghouse personnel. However, the earliest possible receipt of comments will enable Office of Refugee Resettlement staff to make the fullest use of all recommendations submitted.

VI. Application and Approval Procedures

Applications must be submitted on form SSA-96, including the original and two (2) copies.

For programmatic information please contact Deni Blackburn, 1-800-424-9304 or (202) 245-0979. For application kit and budgetary information, please contact Robert L. Robins, (202) 472-4440.

Applicants will be competitively evaluated according to the criteria by a review panel of experts in accordance with the HHS Grants Administration Manual (Chapter 1-55).

Thepanel will make recommendations to the Director of ORR. Selection of grantees will be at the discretion of the Director. The final selection processes will be completed within 30 days after the deadline for receipt of applications. All applications will be reviewed for demonstration of need and the strength of the proposal.

Criteria for panel evaluation are listed in Section VIII below.

VII. Applicable Regulations

The following HHS regulations apply to grants under this Notice:

41 CFR Part 1–15.2 Cost Principles for Contracts with Commercial Organizations. (These principles are applicable to grants or contracts with profit-making organizations).

45 CFR Part 16 Department Grant Appeals Process.

45 CFR Part 74 Administration of Grants.

45 CFR Part 75 Informal Grant Appeals Process.

45 CFR Part 80 Nondiscrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964.

45 CFR Part 81 Practice and Procedures for Hearings Under Part 80 of this Title.

45 CFR Part 84 Nondiscrimination on the Basis of Handicap in Programs and Activities Benefitting from Federal Financial Assistance.

45 CFR Part 90 Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance.

VIII. Criteria for Evaluating Applications

Applications will be evaluated according to the degree to which the integrated response of all program components reflects:

A. Understanding, knowledge and perception of the problems, issues and services involved in the resettlement of Cuban and Haitian entrants as demonstrated in the delineation of the scope and objectives of the proposed project. (25 points)

B. Organizational capacity for overall management as demonstrated by: (20 points)

1. Prior experience in similar operations.

2. A clear organizational chart reflecting levels of authority.

3. Adequate plans for program and staff supervision.

4. Staff experience and capability, including:

a. Bi- or tri-cultural.

b. Bi- or tri-lingual.

C. Response to Application Contents and program requirements, (Section III) including a description of program resources which demonstrate: (30 points)

(1) The capacity to offer care and services which meet the entrants' needs.

(2) Utilization of resources in a manner which promotes and fosters cultural identification and mutual support.

(3) Sensitivity to the issues of culture, race, ethnicity, and native language.

(4) Preparation for and achievement of personal and financial independence for entrants in a speedy and effective manner.

(5) Capability to provide a services plan for procuring and sustaining full-time employment.

D. Planning for securing local support and acceptance of project at receiving site. (5 points)

E. Planning for over-coming difficulties involved in implementing the program. (5 points)

F. Ability to achieve program objectives in an efficient, cost-effective manner as demonstrated in the plan for development, implementation, administration and case management of the proposed program. The estimated costs must be reasonable in relation to the anticipated results (cost-benefit ratio.) (10 points)

G. Planning for project self-evaluation including methodology for evaluating the proposed methods and for measuring outcomes. (5 points)

IX. Records and Reports

Grantees will be required to maintain such fiscal and operational records as are necessary for federal monitoring and auditing of the grants. This record keeping shall include but not be limited to:

A. All materials to be disseminated;

B. Quarterly fiscal and program progress reports due 30 days after the last calendar day of each quarter following the effective date of the grant award.

X. Reference Documents

A. Federal Register Announcement (Vol. 47, No. 49, March 12, 1982)—"Availability of Funding for Entrant Services Grants in High-Impact Areas."

B. Federal Register Announcement (Vol. 47, No. 49, March 12, 1982) "Refugee Resettlement Program and Cuban/Haitian Entrant Program Cash and Medical Assistance Policies."

Dated: August 2, 1982.

Phillip N. Hawkes,

Director, Office of Refugee Resettlement, Social Security Administration, U.S. Department of Health and Human Services.

[FR Doc. 82–21328 Filed 8–5–82; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. NI–100]

Intended Environmental Impact Statement and Notice of Proposed Project Development in Floodplains/Wetlands, City of Oldsman, Florida; and Update Notice of Intent for Deerfield Housing Development and Summertree Planned Unit Development, Madison, Mississippi

The Department of Housing and Urban Development (HUD) gives notice that an Environmental Impact Statement (EIS) and Notice of Proposed Development in Floodplains/Wetlands is intended to be prepared under HUD programs as described in the appendix: The Manors of Forest Lakes, City of Oldsman, Florida and updated notice for an EIS for Deerfield Housing Development and Summertree Planned Unit Development, Madison, Mississippi. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Parts 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interest and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of the Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., July 30, 1982.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

Appendix

EIS and Notice of Early Public Review for E.O. 11988 Floodplain Management

and E.O. 11990 Wetlands for the Manors of Forest Lakes.

The Tampa Service Office, Department of Housing and Urban Development Tampa, Florida intends to prepare an Environmental Impact Statement for the project described below. The Office is simultaneously announcing this Notice for early public review in compliance with Executive Orders 11988 Floodplain Management and 11990 Wetlands for the same project.

The Service Office solicits information and comments for consideration in the EIS and for compliance with E.O. 11988 and 11990.

Description: The proposed development will construct 2,864 units over an area of 1,296 acres during the next 10 years. The project will consist of single family and multi-family units, commercial facilities, schools, recreation sites and lakes. The project is located within the City of Oldsman, north of S.R. 584, east of Lake Tarpon and west of the Hillsborough County line. The developer, CFS Corporation, has submitted a request to HUD for an "Early Start" for construction of up to 199 units. If approved, construction will commerce prior to completion of the EIS. The proposed project is requesting assistance under Sec. 203(b) FHA Mortgage Insurance.

Need: An EIS is proposed since the total number of proposed units exceeds HUD's threshold requirements and since potential development may raise issues related to existing floodplains and wetlands, transportation, and drainage.

Alternatives: The alternatives to be considered by HUD in the EIS include: accept the project as currently proposed by the developer; accept the project with conditions or modifications; and rejection of the project.

Scoping Meeting: A scoping meeting will not be held. HUD will request input from the appropriate government agencies and service organization.

Comments: Comments should be forwarded or or before August 27, 1982 to: Mr. Victor Hollis, Service Office Supervisor, U.S. Department of Housing and Urban Development, Tampa Service Office, 700 Twiggs Street, P.O. Box 2097, Tampa, Florida 33601.

Appendix

EIS Notice extension for Deerfield Housing Development and Summertree Planned Unit Development, Madison, Mississippi.

An EIS is currently under preparation for the Deerfield Housing Development project and Summertree Planned Unit Development by the Jackson Area Office of the U.S. Department of Housing and Urban Development. A Notice to this effect with appropriate information describing each project, need for the EIS, and alternatives to be examined was published in the May 27, 1981 issue of the **Federal Register**, vol. 46, No. 101. Both project EISS are expected to be issued withinone year of this revised Notice. Any comments or questions concerning the EIS's should be addressed to Mr. James S. Roland, Area Manager, Jackson Area Office, U.S. Department of Housing and Urban Development, Room 1016, U.S. Federal Building, 100 West Capitol Street, Jackson, Mississippi 39212.

[FR Doc. 82-21260 Filed 8-5-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Advisory Committee for Exceptional Children; Meeting To Identify Unmet Needs of Handicapped Indian Children

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

In accordance with section 612(7) of Pub. L. 91-230 as amended by section 5(a) of Pub. L. 94-142, Education of the Handicapped Act, the Bureau of Indian Affairs Advisory Committee will meet on August 19-21, 1982, at the Ramada Inn at 6th and Lake Streets, Sparks, Nevada from 8:30 A.M. to 4:30 P.M. each day.

The purpose of the meeting will be to investigate the unmet needs of handicapped Indian children and to discuss the proposed special education regulations for the Bureau of Indian Affairs.

The meeting is open to the public. Any member of the public can file a written statement concerning the matters discussed with the Division of Exceptional Education, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Code 507, Washington, D.C. 20245, within 30 days after the meeting.

Additional information about the meeting may be obtained from Ms. Dixie Owen, Bureau of Indian Affairs, Main Interior, room 4655, phone (202) 343-4071.

Dated: July 27, 1982.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-21291 Filed 8-5-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Casper District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Casper District Grazing Advisory Board will be held on Tuesday, September 14, 1982. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 951 Rancho Road, Casper, Wyoming.

The agenda will include:

(1) Fiscal year 1983 range betterment projects;

(2) Categorization criteria for grazing allotments;

(3) Range planning for the Newcastle Resource Area;

(4) Weed and pest control policy.

The meeting is open to the public. Interested persons may make oral statements or file written statements for the Board's consideration. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming by September 10, 1982. Depending on the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection within 30 days following the meeting.

Paul Arrasmith,

District Manager.

[FR Doc. 82-21292 Filed 8-5-82; 8:45 am]

BILLING CODE 4310-84-M

California Desert District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 94-579, Title IV, Sec. 403, that a public meeting of the California Desert District Grazing Advisory Board will be held Thursday, August 26, 1982 from 10 a.m. to 4:30 p.m. at the Green Tree Inn, Crystal Room A, 14173 Green Tree Boulevard, Victorville, California 92392.

The agenda for the meeting will include:

—Burro Status Report
—Proposed 1982 Plan Amendments
—FY 1982 Grazing Program Accomplishment
—Proposed FY 1983 Range Program

The meeting is open to the public, with time allotted for public comment after each subject has been presented.

Summary minutes of the meeting will be maintained in the California Desert District and will be available for public

inspection during regular business hours within 30 days following the meeting.

For further information and meeting confirmation, contact the California Desert District, 1695 Spruce Street, Riverside, California 92507 (714) 351–6398.

Dated: July 29, 1982.

Bruce Ottenfeld,

Acting District Manager.

[FR Doc. 82–21286 Filed 8–5–82; 8:45 am]

BILLING CODE 4310–84–M

California Desert District Multiple Use Advisory Council; Meeting

Notice is hereby given in accordance with Public Laws 92–463 and 94–579 that the California Desert District Multiple Use Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet formally Friday, August 27, 1982, with a field trip scheduled to the southwest portion of the Barstow Resource Area, San Bernardino County, Saturday, August 28, 1982. The meeting August 27 will be from 10:30 a.m. to 5 p.m. at the Green Tree Inn, Crystal Rooms A and B, 14173 Green Tree Boulevard, Victorville, California 92392.

Agenda items include:

—Proposed 1982 Plan Amendments
—California Desert Plan Interpretation/ Clarification Process
—1982/1983 BLM Budget
—Soda Springs Management
—Asset Management Program
—Aqua Train Project

The meeting is open to the public, with time allotted for public comment after each subject is presented. Statements may be filed in advance to Desert Advisory Council Chairman Clayton A. Record, Jr., Public Affairs Office, 1695 Spruce Street, Riverside, California 92507.

For further information and meeting confirmation, contact the California Desert District, 1695 Spruce Street, Riverside, California (714) 351–6383.

Dated: July 29, 1982.

Bruce Ottenfeld,

Acting District Manager.

[FR Doc. 82–21287 Filed 8–5–82; 8:45 am]

BILLING CODE 4310–84–M

[N-36653]

Nevada; Realty Action Exchange of Public and Private Lands in Elko County

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Mount Diablo Meridian, Nevada

T. 34 N., R. 55 E.,
Sec. 22, SE¼SW¼NE¼, SE¼NE¼.
T. 34 N., R. 55 E.,
Sec. 15, a tract of land in the SW¼SE¼, SE¼SW¼;
Sec. 22, a tract of land in the NW¼NE¼, NE¼NW¼; more particularly described as follows:

"Beginning at a point 85.00 feet left of the centerline of the Railroad Corridor (Project No. RR–130(1)) at City Engineers station "W" 466+13.70 P.O.C., said point of beginning being further described as bearing S. 81°33'40" W. a distance 3,048.80 feet from the NE corner of said Section 22; Thence N. 37°18'33" W. a distance of 274.49 feet to a point; Thence N. 57°37'27" E. a distance of 187.69 feet to a point; Thence N. 37°18'33" W. a distance of 183.00 feet to a point; Thence N. 57°35'27" E. a distance of 185.25 feet to a point; Thence N. 37°18'33" W. a distance of 100.00 feet to a point; Thence N. 57°35'27" E. a distance of 150.92 feet to a point; Thence S. 37°18'33" E. a distance of 100.00 feet to a point; Thence N. 57°35'27" E. a distance of 50.00 feet to a point; Thence N. 37°18'33" W. a distance of 100.00 feet to a point; Thence N. 57°34'40" E. a distance of 49.00 feet to a point; Thence S. 37°18'34" E. a distance of 455.86 feet to a point; Thence S. 41°03'26" W. a distance of 443.95 feet to a point; Thence S. 37°59'37" E. a distance of 21.58 feet to a point; Thence S. 37°59'34" E. a distance of 146.01 feet to a point; Thence S. 59°26'27" W. a distance of 190.05 feet to a point; Thence N. 37°18'33" W. a distance of 186.41 feet to a point of beginning;"

The area described comprises 56.64 acres.

In exchange for these lands the United States will acquire the following described private lands from the City of Elko, Nevada:

Mount Diablo Meridian, Nevada

A parcel of land within the S½NW¼ of sec. 1, T. 34 N., R. 55 E., MDM, Elko County, Nevada, and more particularly described as follows:

Beginning at the point of intersection of the east-west quarter-section line of said Section 1 and the newly adopted southerly right-of-way line of former U.S. Highway 40 (now 40 feet southeasterly from centerline of said highway), as Corner #1, from which point the West quarter-section corner of said Section 1 bears S. 89°08'02" W. 576.09 feet; Thence along said new right-of-way, from a tangent bearing N. 38°31'09" E. on a curve to the right, with a radius of 9960 feet, through a central angle of 0°38'59" an arc distance of 112.95 feet, to Corner #2; Thence continuing along said new right-of-way N. 39°10'08" E. 474.25 feet to Corner #3; Thence N. 89°08'02" E. 849.20 feet to Corner #4; Thence S. 0°51'58" E. 450.00 feet to Corner #5, a point on the east-west quarter-section line of said Section 1; Thence along said line S. 89°08'02" W. 1226.43 feet to Corner #1, the point of beginning.

The area described comprises 10.725 acres.

The purpose of this exchange is to acquire the non-federal lands for a new BLM office site in an area of the City Elko acceptable to that municipality and to provide additional lands for orderly expansion of the City of Elko. The needs of the local people will be met by providing lands for economic and community expansion. The public interest will be served through construction of a new BLM office complex which will consolidate three existing facilities into one single administrative site. The exchange is consistent with the Bureau's planning for the lands involved and is acceptable to local government officials.

The value of the lands to be exchanged are approximately equal. The appraisals have been finalized and necessary adjustments in size of the tracts proposed for exchange have been completed.

Exchange of these lands will be subject to all valid exising rights. The patent, when issued, will contain the following reservation to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

And will be subject to:

1. Those rights for railroad purposes which have been granted to the Nevada Department of Transportation, its successors or assigns, by Permit No. N–29183, under the Act of October 21, 1976, 90 Stat. 2776, 43 U.S.C. 1761.

2. Those rights for powerline purposes which have been granted to Sierra Pacific Power Company, its successors or assigns, by Permit No. N–36573, under the Act of October 21, 1976, 90 Stat. 2776, 43 U.S.C. 1761.

Detailed information concerning the exchange, including the environmental assessment and related documents is available for review at the Elko District Office, 2002 Idaho Street, Box 831, Elko, Nevada 89801.

Until September 20, 1982, interested parties may submit comments to the State Director, Bureau of Lands Management, Nevada State Office (N–943), P.O. Box 12000, Reno, Nevada 89520.

Upon publication of this Notice of Realty Action in the **Federal Register**, the public lands will be segregated from all other forms of appropriation under the public land laws, except exchange and the mining laws, but not the mineral leasing laws, for a period of two (2) years or upon issuance of patent or

other documents of conveyance to such lands, whichever comes first.

Richard G. Morrison,

Acting Chief, Division of Operations.

[FR Doc. 82-21293 Filed 8-5-82; 8:45 am]

BILLING CODE 4310-84-M

Oregon; FAA Airport Grant

July 23, 1982.

Notice is hereby given that pursuant to Section 23 of the Airport and Airway Development Act of 1970, 49 U.S.C. 1723, the Federal Aviation Administration, for the State of Oregon Aeronautics Divisions, has applied for an airport grant for the following public land:

Willamette Meridian

T. 13 S., R. 31 E.,
Sec. 28, S½E½SE¼SE¼, S½N½E¼SE¼SE¼;
Sec. 35: W½NW¼SW¼NW¼, W½E½NW¼SW¼NW¼.

Containing approximately 22.5 acres.

The area under application involves clear zones for runways 9 and 27 at the John Day State Airport located in Grant County, Oregon.

The application was filed on September 3, 1981, and again on 06/16/82.

Interested persons may submit comments to the District Manager, Bureau of Land Management, 74 South Alvord Street, Burns, Oregon 97720, Telehone: (503) 573-2071.

Dated: July 23, 1982.

Joshua Warburton,

District Manager.

[FR Doc. 82-21288 Filed 8-5-82; 8:45 am]

BILLING CODE 4310-84-M

Montana and North Dakota; Availability of Draft Environmental Impact Statement and Announcement of Public Hearings and Meetings and Request for Surface Owner Consent Agreements

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management (BLM), Department of the Interior, has prepared a draft environmental impact statement (EIS) on seven production maintenance/bypass tracts and 17 new production tracts (including one small business tract) located in Montana and North Dakota and has made copies of the document available for public review and comment. In addition, notice is also given that public meetings and hearings will be held and that BLM is seeking public comment on the proposed level of Federal coal leasing as analyzed in the document. Also, a request is included for the submittal of valid surface owner consent agreements to the appropriate BLM office.

DATES: Written comments on the proposal contained in the draft EIS will be accepted up to and including October 8, 1982. Public meetings to provide information and answer questions will be held in North Dakota on August 24, 1982, at the following locations:

Bismarck—Legislative Room, New Wing of State Capitol, 1 p.m.–3 p.m. CDT
Hazen—City Hall, 7 p.m. MDT.

In Montana, public meetings will be held on two days:

August 31, 1982—Circle—7:30 p.m. MDT, Vets Club
September 1, 1982—Wibaux—7:30 p.m. MDT, Wibaux County Courthouse

Public hearings will be held on the following dates:

September 28, 1982—*North Dakota*—Beulah—7:30 p.m. MDT; Civic Center
September 29, 1982—*Montana*—Glendive—7:30 p.m. MDT, Dawson County Courthouse, Community Room

ADDRESSES: Written comments on the EIS are to be addressed to, and copies of the document may be obtained from, David Darby, Fort Union Coal Project Staff, Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107. The draft EIS is available for inspection at the following locations:

Montana State Office Public Room, Bureau of Land Management, 222 North 32nd Street, Billings, Montana 59107
Dickinson District Office, Gate City Savings & Loan Building; 204 Sims Street, P.O. Box 1229, Dickinson, North Dakota 58601
Miles City District, Bureau of Land Management, West of Miles City on Garry Owen Road, P.O. Box 940, Miles City, Montana 59301
Office of Public Affairs, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240

SUPPLEMENTARY INFORMATION: The draft statement analyzes environmental impacts that could result from leasing Federal coal in the Fort Union Coal Region. The statement further analyzes the environmental impacts that could result form the implementation of each of six alternatives. The regional implications of the Woodson Preference Right Lease Application and Meridian Land and Mineral Company's proposed coal exchange are also analyzed in conjunction with Alternative 3. The alternatives are as follows:

Alternative 1. No action or production maintenance bypass (203.2 million tons).

Alternative 2. Production maintenance bypass (203.2 million tons) plus five new production tracts (548.4 million tons) totaling 751.6 million tons.

Alternative 3. Production maintenance bypass (203.2 million tons) plus nine new production tracts (827.2 million tons) totaling 1030.4 million tons.

Alternative 4. Production maintenance bypass (203.2 million tons) plus nine new production tracts (853.9 million tons) totaling 1057.1 million tons.

Alternative 5. Production maintenance bypass (203.2 million tons) plus 11 new production tracts (1,101.0 million tons) totaling 1,304.2 million tons.

Alternative 6. Production maintenance/bypass (203.2 million tons) plus all the new production tracts (1,671.4 million tons) totaling 1,874.6 million tons.

Oral testimony will be limited to ten (10) minutes for each witness at the hearings. Additional time may be granted at the discretion of the presiding officer based on the number of speakers registered. The testimony time limitations will be strictly enforced by the presiding officer. Written texts of prepared speeches may be filed at the hearing whether or not the speaker has been able to complete the oral delivery in the allotted time.

Speakers will be heard in the order established on the witness register. After the last registered witness has been heard, the presiding officer will consider the request of any other person present who wishes to testify. Any person present at the hearing may testify; however, only one witness will be allowed to represent the viewpoints of an organization.

Persons wishing to testify may preregister by submitting a written request to the Dickinson District Office of the Bureau of Land Management for the Beulah hearing or the Miles City District Office for the Glendive hearing. The requests must be received by the two offices at the above addresses prior to the close of business on September 24, 1982. Requests should identify the organization represented by the individual (if any) and should be signed by the prospective witness. Individuals who do not preregister may register at the hearing location prior to each hearing.

Comments on the coal leasing proposal and on the EIS, whether written or oral, will receive equal consideration in preparation of a final EIS.

A Secretarial decision on leasing in the Fort Union Coal Region is expected in March 1983, after completion of the final EIS. As part of that decision, the Secretary may choose to hold a series of lease sales beginning in June 1983.

In accordance with 43 CFR 3420.6–2 and 3427 of the coal management regulations, the BLM is also requesting that written surface owner consent agreements given by qualified surface owners for land within the region be submitted to the appropriate BLM State Office at the addresses given above. Valid written consents for lands in which the ownership of the surface is held by qualified surface owners and the ownership of the underlying coal is reserved to the Federal Government will be accepted on or before a date prior to the lease sale specified in a notice published in the **Federal Register**. It is the responsibility of parties intending to file consents to be aware of pending lease sale notice dates, as set forth in an announced regional lease sale schedule.

Section 714(c) of the Surface Mining Control and Reclamation Act (SMCRA) states that, "The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent." As defined in the regulations (43 CFR 3400.0–5(pp)), qualified surface owner "means the natural person or persons (or corporation, the majority stock of which is held by a person or persons) who:

(1) Hold legal or equitable title to the surface or split estate lands;

(2) Have their principal place of residence on that land, or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations, or receive directly a significant portion of their income, if any, from such farming and ranching operations, and

(3) Have met the conditions of paragraphs (1) and (2) of this subsection for a period of at least 3 years, except for persons who gave written consent less than 3 years after they met the requirements of both paragraphs (1) and (2) of this section. In computing the three year period the authorized office shall include periods during which title was owned by a relative of such person by blood or marriage if, during such periods, the relative would have met the requirements of this subsection."

Valid written consent is defined in the regulations (43 CFR 3400.0–5(zz)) as "the document or documents that a qualified surface owner has signed that: (1) Permit a coal operator to enter and commence surface mining of coal; (2) describe any financial or other consideration given or promised in return for the permission, including in-kind considerations; (3) describe any consideration given in terms of type or method of operation or reclamation for the area; (4) contain any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (5) contain a full and accurate description of the area covered by the permission."

As required by 43 CFR 3427.2(e), it is the Bureau's responsibility to review all consents received. The Bureau will verify that the named surface owner is a qualified surface owner as defined in the regulations and that the title for split estate lands described in the filing is held by the named qualified surface owner(s). In addition, to be considered valid, consents entered into after the August 3, 1977, date of enactment of the Surface Mining Control and Reclamation Act, must be transferable to whoever makes the successful bid in a lease sale for the tract that includes the lands to which the consent applies. If the high bidder is not the consent holder, a 90-day transfer period will be provided to allow the high bidder to acquire the consent by transfer before any final action is taken by BLM. A written consent shall be considered transferable only if, at a minimum, it allows that after the lease sale for the tract to which the consent applies (i) payment for the consent may be made by the successful bidder or (ii) the successful bidder may reimburse, at the purchase price of the consent, the party that first obtained the consent. If a filing is from anyone other than the named qualified surface owner, the BLM shall contact the named qualified surface owner and request confirmation, in writing, that the filed, transferable, written consent, or evidence thereof, to enter and commence surface mining has been granted and that the filing fully disclosed all of the terms of the written consent.

To facilitate the filing and review of written consents from qualified surface owners, the person submitting the consent is asked to include a statement that the evidence submitted represents a true, accurate, and complete statement of information regarding the consent for the area described. Such a validation statement is required by 43 CFR 3427.3. The statement is to be signed and dated by the person submitting the consent and can be either incorporated directly into the consent document or enclosed as a separate item submitted with the consent document.

The statement can be worded as follows: "I (We) hereby declare that the evidence submitted, to the best of my (our) knowledge, represents a true, accurate, and complete statement of information regarding the surface owner consent for the area described." This validation statement does not have to be witnessed or notarized.

Consents entered into before the August 3, 1977, enactment of the Surface Mining Control and Reclamation Act, do not have to be transferable within the meaning of 43 CFR 3427.2(e)(1). If the high bidder is not the consent holder, a renegotiation period of 3 to 6 months will be established to allow the high bidder to acquire consent before any final action is taken by BLM.

A qualified surface owner(s) that has not been contacted by, or requested to enter into any agreement with, a private party and who may wish to give consent to allow permission to enter and commence surface coal mining may prepare, sign, and submit a consent document to the BLM Montana State Office. The consent document should include the information and requirements specified earlier in this notice in order to constitute a valid written consent as defined in the coal regulations (43 CFR 3400.0–5(zz)) and must indicate any specific terms the surface owner may request to allow permission to enter and commence surface coal mining. This unilateral consent document must be signed by a private party prior to the date specified in the notice published in the **Federal Register** for the area affected, or the area affected will not be offered for lease sale.

In accordance with 43 CFR 3427.2(a), written statements from qualified surface owners who refuse to consent to coal leasing may be filed with the Montana State Office at the address given above. Submission of a refusal to consent by a qualified surface owner who is firmly against giving consent, thereby disqualifying the specified lands from further leasing consideration, will deter pressure from persons or parties seeking to enter into a consent agreement and will prevent continued inquiries by the BLM of the status of surface owner consent for the specified lands.

Dated: July 23, 1982.

James M. Parker,

Acting Director, Bureau of Land Management.

Approved:

Frank A. DuBois,

Acting Assistant Secretary of the Interior.

[FR Doc. 82–21254 Filed 8–5–82; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Reclamation

Big Sandy River Unit, Colorado River Water Quality Improvement Program, Wyoming; Intent To Prepare a Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental impact statement on the Big Sandy River Unit of the Colorado River Water Quality Improvement Program.

The Big Sandy River Unit project would remove from 68,000 to 80,000 tons of salt annually from the Colorado River.

The project is being studied under the Federal Water Pollution Control Act of October 18, 1972 (Pub. L. 92–500), the Colorado River Basin Salinity Control Act of June 24, 1972 (Pub. L. 92–320), and Pub. L. 96–375 of October 3, 1980.

Reclamation has studied several alternatives. The candidate plans include collection from wells at the seepage area, construction of a water supply reservoir, and a pipeline and diversion structure at the confluence of the Big Sandy and Green Rivers.

A scoping meeting will be held on the project at 7 p.m., Wednesday, August 18, 1982, at the Farson Community Center, Highway 187, Farson, Wyoming. This meeting is in accordance with Section 1508.22 of the final regulations of the Council on Environmental Quality.

Most issues to be addressed at the scoping session have been identified during studies for the Big Sandy River Unit. Additional information and ideas will be solicited from all interested individuals and organizations.

Inquiries should be addressed to Mr. J. F. Rinckel, Projects Manager, Bureau of Reclamation, 764 Horizon Drive, Grand Junction, Colorado 81501, telephone (303) 243–4992.

Dated: July 30, 1982.

R. N. Broadbent,

Commissioner.

[FR Doc. 82–21262 Filed 8–5–82; 8:45 am]

BILLING CODE 4310–09–M

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations; Proposed Contractual Actions Pending Through September 1982

It is the policy of the Department of the Interior to afford the affected public an opportunity to be aware of and to provide comments on water service and repayment contract negotiations being conducted by the Bureau of Reclamation. Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the **Federal Register** February 22, 1982, Vol. 47, page 7763, a tabulation is provided below of proposed contractual actions in each of the seven Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during July, August, or September of 1982. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved. The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the addresses and telephone numbers given for each region.

This notice is one of a variety of means being used to inform the public about proposed contractual actions. Some of the actions listed have been publicized in the **Federal Register** previously. When this is the case, the date of publication is given. Individual notice of intent to negotiate, and other appropriate announcements, will be made in the **Federal Register** for those actions found to have widespread public interest. In addition, a wide variety of local publicity resources are being used selectively to inform the public affected by a specific contract proposal.

Acronym Definitions Used Herein

(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
(O&M) Operation and Maintenance
(CVP) Central Valley Project
(P–SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act

Pacific Northwest Region

Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, ID 83724, telephone (208) 334–9011.

1. Whitestone Reclamation District, Chief Joseph Dam Project, Washington; Amendatory repayment contract; Repayment obligation to be increased from $832,000 to $910,188; FR notice published July 31, 1980, Vol. 45, page 50943.

2. Boise Cascade Corporation, Columbia Basin Project, Washington; Industrial water service contract; 250 acre-feet; FR notice published April 7, 1980, Vol. 45, page 23531.

3. Potholes Reservoir Bank Storage Pumpers, Columbia Basin Project, Washington; Long-term irrigation water service contract not to exceed 320 acres or 1,000 acre-feet of water annually for a term of up to 40 years; FR notice published November 3, 1981, Vol. 46, page 54648.

4. East and Quincy Columbia Basin Irrigation Districts, Columbia Basin Project, Washington; Supplement No. 1 to the Master Water Service Contract; 20,000 acres of bypassed lands; FR notice published May 12, 1982, Vol. 47, page 20385; Temporary peaking water service contracts scheduled for execution in July; Up to 10,000 acre-feet will be made available at $3.00 per acre-foot for use on the existing service area of each district for the 1982 irrigation season.

5. Northwest Land and Investment, Inc., Columbia Basin Project, Washington; Temporary water service contract for 40 acre-feet.

6. Okanogan, ID, Okanogan Project, Washington; R&B loan repayment contract; $10,792,000 proposed obligation.

7. Miscellaneous Water Users, Pacific Northwest Region, Idaho, Oregon, and Washington; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contract for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms of up to 2 years.

8. Rogue River Basin water users, Rogue River Basin Project, Oregon; Water service contracts; $5 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water per contractor for terms up to 40 years.

9. City of Hillsboro, Tualatin Project, Oregon; Repayment contract to repay $368,000 estimated costs of channel improvement at Spring Hill Pumping Plant.

10. Willamette Basin water users, Willamette Basin Project, Oregon; Water service contracts; $1.25 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

11. Outlook ID, Yakima Project, Washington; R&B loan repayment contract; $2,487,000 proposed obligation; FR notice published February 4, 1982, Vol. 47, page 5363.

12. Sunnyside Valley ID, Yakima Project, Washington; R&B loan repayment contract; $13,221,000 proposed obligation.

13. Granger ID, Yakima Project, Washington; R&B loan repayment contract; $1,111,000 proposed obligation.

14. Sunnyside Valley Board of Control, Yakima Project, Washington; R&B loan repayment contract; $15,901,000 proposed obligation.

15. Washington Water Power Company, Inc., Columbia Basin Project, Washington; Industrial water service contract; 24,000 acre-feet of water per year from Franklin D. Roosevelt Lake for the proposed Criston Powerplant; FR notice published December 11, 1981, Vol. 46, page 60658.

16. Boise Project Board Control, Boise Project, Idaho-Oregon; Short-term irrigation water service contract for 1982; 22,800 acre-feet of stored water in Arrowrock Reservoir at $1.00 per acre-foot.

Mid-Pacific Region

Bureau of Reclamation, (Federal Office Building) 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 484–4680.

1. El Dorado ID, CVP, California; Water service contract; 22,300 acre-feet; with construction of Auburn Dam.

2. 4–E Water District, CVP, California; Water service contract; 80 acre-feet; FR notice published October 3, 1979, Vol. 44, page 56991.

3. 2047 Drain Water Users Association, CVP, California; Water right settlement contract.

4. Stockton-East Water District, CVP, California; Interim water service contract; 39,000 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

5. Central San Joaquin Water Conservation District, CVP, California; Water service contract; 49,000 acre-feet firm supply and interim supplies from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

6. Tuolumne Regional Water District, CVP, California; Water service contract; 9,000 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

7. Calaveras County Water District, CVP, California; Water service contract; 15,000 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

8. Colusa County Water District, CVP, California; Amendatory water service and repayment contract to provide for delivery of M&I water.

9. Solano Irrigation District, CVP, California; Amendatory loan contract providing for reconveyance and M&I water supply delivery.

10. County of Tulare, CVP, California; Amendatory water service contract; 4,906 acre-feet.

11. Hills Valley ID, CVP, California; Amendatory water service contract; 3,346 acre-feet.

12. Ducor ID, CVP, California; Amendatory water service contract; 400 acre-feet.

13. Tri-Valley Water District, CVP, California; Amendatory water service contract; 1,142 acre-feet.

14. Carson-Truckee Water Conservancy District, Washoe Project, California/Nevada Interim water service contract; 10,000 acre-feet; FR notice published May 14, 1981, Vol. 46, page 26705.

15. Miscellaneous Water Users, Mid-Pacific Region, California, Oregon and Nevada; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years.

16. Arvin-Edison Water Storage District, CVP, California; Amendatory loan repayment contract to provide for delivery of M&I water.

Upper Colorado Region

Bureau of Reclamation, P.O. Box 11568, (125 South State Street) Salt Lake City, UT 84147, telephone (801) 524–5435.

1. Utah International, Inc., Navajo Unit, CRSP, New Mexico; Amendatory industrial water service contract; Annual release limited to 44,000 acre-feet from Navajo Reservoir; Annual consumptive use limited to 35,300 acre-feet; FR notice published October 5, 1981, Vol. 46, page 48995.

2. Southern Ute Indian Tribe, Florida Project, Colorado; Amendatory contract to Contract No. 14–06–400–3038 of May 7, 1963; An administrative action to provide for delivery of 181 acre-feet of water presently delivered outside the terms of the existing contract.

3. Miscellaneous water users, Upper Colorado Region, Utah, Wyoming, Colorado, and New Mexico; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years.

4. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado; Water service contract; 26,500 acre-feet per year for M&I use; 3,300 acre-feet per year for irrigation; FR notice published April 17, 1981, Vol. 46, page 22474.

5. Ute Mountain Ute Indian Tribe, Animas-La Plata Project, Colorado and New Mexico; Water service contract; 6,000 acre-feet per year for M&I use; 26,600 acre-feet per year for irrigation; FR notice published April 17, 1981, Vol. 46, page 22474.

6. Navajo Tribal Utility Authority, Animas-La Plata Project, New Mexico; M&I water service contract; 7,600 acre-feet per year; FR notice published April 17, 1981, Vol. 46, page 22474.

7 Springville ID–Mapleton ID, Strawberry Valley Project, Utah; Repayment contract for R&B program loan obligation not to exceed $228,000; FR notice published June 3, 1982, Vol. 47, page 24227.

8. Ute Mountain Ute Tribe and Bureau of Indian Afaairs, Dolores Project, Colorado; Repayment contract; 1,000 acre-feet per year for M&I use; 22,900 acre-feet per year for irrigation; FR notice published September 12, 1980, Vol. 45, page 59642.

Lower Colorado Region

Bureau of Reclamation, P.O. Box 427, (Nevada Highway and Park Street) Boulder City, NV 89005, telephone (702) 293–8536.

1. DeLuz Heights Municipal Water District, Fallbrook, California; SRPA loan amendatory repayment contract; $2,984,744 cost escalation adjustment.

2. City of Somerton and Yuma County Water Users Association, Boulder Canyon and Yuma Projects, Arizona; M&I water service contract; 750 acre-feet; FR notice published August 10, 1981, Vol. 46, page 40588.

3. Imperial ID, Boulder Canyon Project, Arizona; Transfer of O&M function for Imperial Dam and related woks; Administrative action.

4. Rainbow Municipal Water District, Fallbrook, California; SRPA loan amendatory contract; $9,090,800 cost escalation adjustment; FR notice published May 24, 1979, Vol. 44, page 30173.

5. Lake Havasu IDD for Horizon Six and Ansazi Pueblo, Boulder Canyon Project, Arizona; M&I water service contracts for 170 and 131 acre-feet per year, respectively. Contract execution pending approval and/or request for negotiating sessions by Lake Havasu IDD and submission of subcontracts for Bureau approval.

6. City of Yuma, Boulder Canyon Project, Arizona; Amendatory M&I water service contract; 3,613 acre-feet.

7. Mohave County, Boulder Canyon Project, Arizona; M&I water service contract; 10,000 acre-feet per year; FR notice published June 11, 1979, Vol. 44, page 33497.

8. Ak Chin Indian Community, Maricopa, Arizona; SRPA loan repayment contract; $12,291,500 loan proposal.

9. Agricultural and M&I water users, Central Arizona Project, Arizona; Water service subcontracts; A certain percent of available supply for irrigation entities and up to 640,000 acre-feet for M&I use.

10. City of Needles, California; Contract for Miscellaneous Present Perfected Rights; Pursuant to Supreme Court Decree of March 9, 1964, in *Arizona* v. *California* as supplemented on January 9, 1979, for 1,500 acre-feet; Contract submitted to city for review and approval.

11. Cibola IDD, Boulder Canyon Project, Arizona; Water service contract for 22,560 acre-feet per year.

12. Hillander "C" ID, Boulder Canyon Project, Arizona; Temporary water service contract for water service not to exceed 10,000 acre-feet per year.

13. Hillander "C" ID, Boulder Canyon Project, Arizona; Permanent water service contract for water service not to exceed 28,000 acre-feet per year.

Southwest Region

Bureau of Reclamation, Commerce Building, Suite 201, 714 South Tyler, Amarillo, TX 79101, telephone (806) 378–5430.

1. Village of Questa, San Juan-Chama Project, New Mexico; M&I water service contract for 200 acre-feet annually; FR notice published January 25, 1980, Volume 45, page 6178.

2. City of Belen, San Juan-Chama Project, New Mexico; M&I water service contract for 500 acre-feet annually.

3. Fort Cobb Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract to convert 4,700 acre-feet of irrigation water to M&I use; FR notice published August 13, 1981, Vol. 46, page 40940.

4. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract for remedial work. Necessity of amendment is dependent upon outcome of pending Safety of Dams legislation, S.956 and H.R.3208.

5. Harlingen ID, Lower Rio Grande Valley, Texas; Repayment contract for R&B program; Estimated cost is $3 million.

Vermejo Conservancy District, Vermejo Project, New Mexico; Amendatory contract to relieve the district of its repayment obligation, presently exceeding $2 million, pursuant to Public Law 96–550.

7. City of Albuquerque, San Juan-Chama and Rio Grande Projects, New Mexico; A water storage contract to hold a portion of the city's San Juan-Chama Project water in Elephant Butte Reservoir for potential resale to the French Wine Growers Association to irrigate 4,200 acres near Elephant Butte Reservoir.

8. State of Oklahoma, McGree Creek Project, Oklahoma; Repayment contract for State's share of costs associated with development of recreation facilities and certain Fish and Wildlife facilities; Obligation will be negotiated in accordance with the Federal Water Project Recreation Act (PL 89–72), as amended.

9. State of Colorado, Closed Basin Division, San Luis Valley Project; Repayment contract for State's share of costs associated with development of recreation facilities and certain Fish and Wildlife facilities; Obligation will be negotiated in accordance with the Federal Water Project Recreation Act (PL 89–72), as amended; FR notice published February 12, 1982, Vol. 47, page 6493.

Upper Missouri Region

Bureau of Reclamation, P.O. Box 2553, Federal Building, 316 North 16th Street, Billings, Montana 59103, Telephone (406) 657–6413.

1. Miscellaneous Water Users, Upper Missouri Region, Montana, Wyoming, North Dakota, and South Dakota; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms of up to 2 years.

2. Individual Irrigators, Canyon Ferry Unit, P–SMBP, Montana; Irrigation water service contracts not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

3. Crook County ID (formerly Belle Fourche-Wyoming Water Association), Keyhole Unit, P-SMBP, Wyoming; Repayment contract for irrigation storage; 10 percent (presently 18,500 acre-feet) of Keyhole Reservoir storage space as provided by Belle Fourche River Compact; FR notice published August 21, 1980, Vol. 45, Page 55843.

4. Belle River Pumpers Association, Keyhole Unit, P–SMBP, Wyoming; Repayment contract for irrigation storage; 3 percent (presently 5,500 acre-feet) of Keyhole Reservoir storage space; FR notice published March 29, 1982, Vol. 47, Page 13234.

5. Montana Power Company, Yellowtail Unit, P–SMBP, Montana; Industrial water service contract; 6,000 acre-feet of water annually for Colstrip Power Complex; FR notice published February 3, 1981, Vol. 46, Page 10544.

6. City of Powell, Shoshone Project, Wyoming; M&I water service contract; Up to 3,000 acre-feet of water annually from Buffalo Bill Reservoir; FR notice published May 5, 1981, Vol. 46, page 25146.

7. Town of Byron, Shoshone Project, Wyoming; M&I water service contract; Up to 600 acre-feet of water annually from Buffalo Bill Reservoir; FR notice published September 29, 1981, Vol. 46, page 47668.

8. City of Riverton, Boysen Unit, P–SMBP, Wyoming; M&I water service contract; Up to 4,000 acre-feet of water annually; FR notice published October 5, 1981, Vol. 46, page 48996.

8. West River Conservancy Sub-District, Shadehill Unit, P–SMBP, South Dakota; Irrigation water service contract: 5,808 acre-feet of water or 3 acre-feet per acre for 1,936 acres.

10. Rapid Valley Water Service Company, Rapid Valley Unit, P–SMBP, South Dakota; Domestic and residential water service contract; Up to 600 acre-feet per year.

11. Bill Larson, Arrowwood Golf Course, Canyon Ferry Unit, P–SMBP, Montana; Municipal water service contract for irrigation of golf course; Up to 490 acre-feet annually.

12. Deaver ID, Shoshone, Project, Wyoming; R&B loan repayment contract; Up to $1.6 million; FR notice published April 21, 1982, Vol. 47, Page 17118.

13. Nokota Company, Lake Sakakawea, P–SMBP, North Dakota; Industrial water service contract; Up to 16,800 acre-feet of water annually; FR notice published May 5, 1982, Vol. 47, Page 19472.

14. Hilde Construction Company, Canyon Ferry Unit, P–SMBP, Montana; Industrial water service contract; 25 acre-feet per year from Canyon Ferry Reservoir.

15. State of Wyoming, Buffalo Bill Dam Modifications, P–SMBP, Wyoming; Contract with State of Wyoming for division of additional water impounded, sharing of revenues, and sharing of costs to construct, operate, and maintain modification of the existing Buffalo Bill Dam and Reservoir; Negotiations contingent on pending legislation, S.1409, being enacted.

16. WEB Rural Water Development Project, South Dakota; Grant and loan program for rural water facilities; To bring water to approximately 30,000 people and 50 rural communities; Negotiations contingent on pending legislation, H.R.4347 and S.1553, being enacted.

Lower Missouri Region

Bureau of Reclamation, P.O. Box 25247 (Building 20, Denver Federal Center), Denver, Colorado 80225, telephone (303) 234–3327.

1. H&RW ID, Frenchman-Cambridge Unit, P–SMBP, Nebraska; Amendatory water service contract; $1,200,000 outstanding; FR notice published February 5, 1982, Vol. 47, Page 5472.

2. City of Cheyenne, Kendrick Project, Wyoming; Interim water storage contract; 10,000 acre-feet; FR notice published April 28, 1982, Vol. 47, Page 18187.

3. Central Nebraska Public Power and ID, Glendo Unit, P–SMBP, Nebraska; Irrigation water service contract; 8,000 acre-feet; FR notice published February 7, 1980, Vol. 45, Page 8364.

4. Kirwin ID No. 1, Kirwin Unit, P–SMBP, Kansas; Deferment of repayment obligation for 1982; $31,051.64 payment deferral.

5. Cedar Bluff ID No. 6, Cedar Bluff Unit, P–SMBP, Kansas; Deferment of repayment obligation for 1982; $18,820.10 payment deferral.

6. Webster ID No. 4, Webster Unit, P–SMBP, Kansas; Deferment of repayment obligation for 1982; $32,620.50 payment deferral.

7. Purgatoire River Water Conservancy District, Trinidad Project, Colorado; Amendatory repayment contract for extension of the development period and revision of the repayment determination methodology.

8. Frenchman-Cambridge ID, Frenchman-Cambridge Unit, P–SMBP, Nebraska; Amendatory R&B repayment contract; Increase current R&B program obligation of $4.4 million to $5.5 million.

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) All meetings or negotiating sessions scheduled by the Bureau of Reclamation with a potential contractor for the purpose of discussing terms and conditions of a proposed contract will be open to the general public as observers unless otherwise publicly announced. Advance notice of such meetings will be furnished to those parties that have made a timetly written request for such notice to the appropriate regional or project office of the Bureau of Reclamation.

(2) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383, 5 U.S.C. 552), as amended.

(3) All written comments received and testimony presented at any public hearing will be reviewed and summarized by regional staff for use by appropriate contract approving authority; i.e., Regional Director, Commissioner of Reclamation, or Secretary of the Interior.

(4) As specific proposed contracts become available for review and comment, copies may be obtained from the appropriate Regional Director identified above.

Dated: July 30, 1982.

R. N. Broadbent,

Commissioner of Reclamation.

[FR Doc. 82–21263 Filed 8–5–82; 8:45 am]

BILLING CODE 4310-09-M

Minerals Management Service

Request for Public Comment on Fair Market Value and Maximum Economic Recovery

AGENCY: Minerals Management Service, Interior.

The Minerals Management Service (MMS) has redelineated five tracts as candidates for lease offering by the Department in the Powder River coal production region in Wyoming and Montana. A description of these tracts is contained in Table I. (More complete geologic data on these tracts are available for public inspection at the Office of the Deputy Minerals Manager for Resource Evaluation, North Central Region, Minerals Management Service, 100 East "B" Street, Room 2001, Casper, Wyoming 82602; other information is contained in the Final Environmental Impact Statement available from the Bureau of Land Management State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001.)

The public is invited to submit written comments on what would constitute fair market value (FMV) and maximum economic recovery of the listed tracts to the MMS. Comments should address the following types of information:

Fair Market Value

1. Information on the terms and conditions of recent and similar coal land transactions in the lease sale area (comparable sales).

2. The price that the mined coal would bring in the marketplace under a long-term contract.

3. The cost of producing the coal including mining and reclamation costs.

4. The percentage rate at which anticipated income streams should be discounted, either in the absence of inflation or including inflation, in which case the anticipated rate of inflation should be given.

5. Depreciation and other accounting factors.

6. The value of the surface estate if privately held.

Maximum Economic Recovery

7. The quantity and quality of the coal resource for each tract by seam(s).

8. The mining method or methods which would achieve maximum economic recovery of the coal, including specification of seams to be mined on each tract and the most desirable timing and rate of production.

9. The demonstrated and inferred reserves of coal on each tract by seam(s).

10. Which of the tracts, if any, should be evaluated as part of a larger mining unit (i.e., those tracts which do not in themselves form a logical mining unit); and the configuration of the larger mining unit of which the tract may be a part.

11. Restrictions to mining which may affect coal recovery .

If information submitted is considered to be proprietary, the information should be so labeled in the first page of the written comment. The MMS will treat this information as confidential if authorized by the exemption provisions of the Freedom of Information Act.

Comments should be sent to the Mineral Manager, North Central Region, Minerals Management Service, P.O. Box 2859, Casper, Wyoming 82602. Comments should be received no later than 30 days after publication of this notice.

This request for comments should not be interpreted as a firm commitment by the Federal Government to lease any of the tracts listed in Table I. The acreages and tonnages are preliminary and are subject to change until a final leasing decision is made. A decision to lease any or all of the tracts listed in Table I will be made by the Secretary of the Interior in the near future.

Departmental policy calls for release of all nonproprietary data which are used in determining FMV. Under this policy, the MMS is releasing for public comment and review:

1. The coal selling price which is an estimate of the range of current long-term contract market prices and is based on the quality of the coal;

2. The unit mining cost which is an estimate of the range of all operating costs used to produce the coal; and

3. Applicable discount rates and inflation rates.

It should be noted that the values for these above factors are current estimates only. The values may change as a result of comments received from

the public and/or changes in future market conditions. To obtain these estimates, contact the Minerals Management Service, North Central Region, Economic Evaluation Office, Room 209, Intermountain Building, 1st and Wolcott Streets, Casper, Wyoming 82601 (307–265–5550, extension 5735).

Andrew V. Bailey,

Acting Associate Director for Onshore Minerals Operations.

TABLE I.—DESCRIPTION OF POSSIBLE LEASE TRACTS IN THE POWDER RIVER COAL REGION

Tract name and State	County	Township and range	Acres	Type of mine	Recoverable reserves (million tons)	Btu per pound	Sulfur content (percent)	Ash content (percent)
Rocky Butte, WY	Campbell	T.48–49 N., R. 71 W., 6 P.M.	4,856	Surface	445.0	8,462	0.3	5.0
Fortin Draw, WY	Campbell	T.50–49 N., R. 71 W., 6 P.M.	320	do	26.6	8,000	.5	6.0
Spring Creek, MT	Big Horn	T.8 S., R.39–40 E.	280	do	20.0	9,407	.3	3.6
North Decker I, MT	do	T.8–9 S., R. 40 E.	510	do	16.6	9,733	.4	4.1
North Decker II, MT	do	T. 8–9 S., R. 40 E.	921	do	30.0	9,733	.4	4.1

[FR Doc. 21102 Filed 8–5–82; 8:45 am]

BILLING CODE 4310–31–M

National Park Service

Upper Delaware Citizens Advisory Council; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: August 27, 1982, 7 p.m.

ADDRESS: Arlington Hotel, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764–0159 (717/729–7135).

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include review of Draft Management Plan.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764–0159. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National Scenic and Recreational River, River Road, 1¾ miles north of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: July 29, 1982.

Don H. Castleberry,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 82–21327 Filed 8–5–82; 8:45 am]

BILLING CODE 4310–70–M

Office of the Secretary

Privacy Act of 1974; Establishment and Deletion of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to establish a new system of records and abolish other systems of records. The National Park Service proposes to establish a system of records titled "Motor Vehicle Operations Program—Interior, NPS–22." The records system will be used in connection with the issuance of driver's permits to National Park Service employees. A description of the system of records is published in its entirety below.

This notice also documents the incorporation of records systems of the former Heritage Conservation and Recreation Service (HCRS) into the systems of the National Park Service. The following HCRS systems of records are deleted from the Department's inventory of Privacy Act records systems:

Name of records system	Published at
1. Congressional Correspondence File—Interior, BOR–1.	42 FR 19078.
2. Payroll System—Interior, BOR–2	42 FR 19079.
3. Management by Objectives—Interior-BOR–3.	42 FR 19079.
4. Motor Vehicle Operations Program—Interior, BOR–4.	42 FR 19080.
5. Financial Management System—Interior, BOR–5.	42 FR 19080.
6. Property Hand Receipt File—Interior, BOR–6.	42 FR 19080.
7. Travel and Transportation Automated Accounting System—Interior, BOR–7.	42 FR 19081.

The Appendix to the Department's publication of systems of records, which lists addresses of field facilities, is being amended to delete references to the Heritage Conservation and Recreation Service. Part XV of the Appendix is revised to show that it is "Reserved".

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. The Office of Management and Budget, which has oversight responsibilities under the Act, requires a 60-day period in which to review proposals to establish records systems. Therefore, written comments on the proposed system of records (NPS–22) can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before September 7, 1982 will be considered. The system shall be effective as proposed without further notice unless comments are received which would result in a contrary determination.

As required by Section 3 of the Privacy Act of 1974 (5 U.S.C. 552a(o)), the Director, Office of Management and Budget, the President of the Senate, and the Speaker of the House of Representative have been notified of this action.

Dated: July 28, 1982.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

Interior/NPS–22

SYSTEM NAME:

Motor Vehicle Operations Program—Interior, NPS–22

SYSTEM LOCATION:

National Park Service, Department of the Interior, Washington, D.C. 20240. All Regional Offices (see Appendix for addresses) of the National Park Service.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

National Park Service employees who are assigned U.S. Government Motor Vehicle Operator Permits for temporary use.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information identifying the employee such as: Name, sex, birth date, color of hair, color of eyes, height, weight, birthplace, social security number, accident summary, accident reports, driver's license number, date issued, date license expires, types of vehicles operated, corrective lenses or any other impairments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 211j of the Federal Porperty and Administrative Services Act of 1949, as amended (68 Stat. 1128; 40 U.S.C. 491(j)) and the related Motor Vehicle Operator Regulations and Standards issued by the Office of Personnel Management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) authorize a person to operate a Government vehicle. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated ligitation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a Federal agency where necessary to obtain information relevant to the issuance of an operator's permit; (4) from the record of an individual responding to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A computer program is maintained with four printouts listing individual permit holders by card number, organization code, alphabetical list, and permit date of expiration. These printouts are accessible by the System Manager.

RETRIEVABILITY:

Permit information can be retrieved by number of card issued, name or organization code of agency.

SAFEGUARDS:

Completed forms maintained in Official Personnel Folder in locked cabinets.

RETENTION AND DISPOSAL:

Permits are issued for a period of three years—then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Safety Specialist, Safety Management Division, National Park Service, Washington, D.C. 20240, for Washington Office employees; and (2) Administrative Officer, appropriate Regional Office listed in the Appendix, for Regional Office employees.

NOTIFICATION PROCEDURE:

All inquiries should be addressed to System Manager for Washington Office employees and the appropriate Regional Office for regional employees. (See 43 CFR 2.60)

RECORD ACCESS PROCEDURES:

Requests for access should be addressed as follows: (1) Washington Office employees should contact the System manager; (2) Regional employees should contact the appropriate Administrative Officer at the location listed in the Appendix. (See 43 CFR 2.63)

CONTESTING RECORD PROCEDURES:

Petitions for correction should be addressed as follows: (1) Washington Office employees should contact the System Manager; (2) Regional employees should contact the appropriate Administrative Officer at the location listed in the Appendix. (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

Individual, Agency Officials, local and State authorities.

[FR Doc. 82–21302 Filed 8–5–82; 8:45 am]

BILLING CODE 4310–10–M

Senior Executive Service (SES) Performance Awards

AGENCY: Interior Department.

ACTION: Notice of Intention To Grant Senior Executive Service Performance Awards to Career Members of the SES.

SUMMARY: This Notice serves to establish September 1, 1982 through September 30, 1982 as the period during which SES Performance Awards will be granted to career members of the SES in accordance with 5 U.S.C. 5384 and within the limitations established by Congress and the Office of Personnel Management.

DATE: September 1, 1982 through September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Morris A. Simms, Director of Personnel, U.S. Department of the Interior, Room 5201, 1800 C Street, NW., Washington, D.C. 20240, Telephone Number 343–6761.

On July 21, 1980, the Director, Office of Personnel Management issued the following instructions:

(b) Each agency should publish a notice in the **Federal Register** of the agency's schedule for awarding bonuses at least 14 days prior to the date on which the awards will be paid.

The Department of the Interior intends to grant Senior Executive Service Performance Awards to career members of the SES during the period from September 1 through September 30, 1982.

Dated: July 22, 1982.

Joseph E. Dodderidge,

Acting Deputy Assistant Secretary of the Interior.

[FR Doc. 82–21289 Filed 8–5–82; 8:45 am]

BILLING CODE 4310–10–M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized by 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Benham & Company, Inc., P.O. Box 29, Mineola, TX 75773.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(a) Midwest Transport Co., P.O. Box 29, Mineola, Texas 75773. State of Inc.: Texas—April, 1980.

(b) Sabine Trucking, Inc., P.O. Box 29, Mineola, Texas 75773. State of Inc.: Texas—June, 1979.

(c) Phoenix Industries, Inc., P.O. Box 29, Mineola, Texas 75773. State of Inc.: Tennessee—March, 1977.

(d) Triben Corporation, 180 Cook St., Denver, Colorado 80206. State of Inc.: Delaware—April, 1978.

(e) Trinidad Bean & Elevator Co., P.O. Box 6490, Cherry Creek Sta., Denver, Colorado 80206. State of Inc.: Colorado—August, 1917.

1. Parent corporation and address of principal office: Field Container Corporation, 1500 Nicholas Blvd., Elk Grove Village, IL 60007.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Eastfield Corporation, 1501 Russell Street, Baltimore, MD 21230
Southfield Corporation, 1501 Industrial Park Drive, Tuscaloosa, AL 35402
J. G. Clark Corporation, 2079 Canaan Township Road, Edison, OH 43320
Marion Express, Inc., 2079 Canaan Township Road, Edison, OH 43320

1. Parent corporation and address of principal office: Univar Corporation, 1600 Norton Building, 801 Second Avenue, Seattle, WA 98104.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

(i) *Penick & Ford, Limited.* Incorporated under the laws of the State of Delaware. Division: *Great Western Malting Co.*

(ii) *Idaho Malting Company.* Incorporated under the laws of the State of Washington.

(iii) *Van Waters & Rogers Ltd.* Incorporated under the "Companies Act" of the Province of British Columbia, Canada. Subsidiary: *Vancouver Fumigating Company Limited.* Incorporated under the lawa of the Province of British Columbia, Canada.

(iv) *VWR Scientific Inc.* Incorporated under the lawss of the State of Delaware. Subsidiaries: *VWR Scientific Export Corporation* (DISC). Incorporated under the laws of the State of Delaware. *VWR Scientific International Limited.* Incorporated under the companies ordinance of Hong Kong.

(v) *Great Western Malting Export Corporation* (a DISC). Incorporated under the laws of the State of Washington.

(vi) *Guardsman Insurance Company Ltd.* Incorporated under the laws of Bermuda.

(vii) *Pacific Cogeneration, Inc.* Incorporated under the laws of the State of Washington.

(viii) *Van Waters & Rogers.* A division of Univar Corporation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-21270 Filed 8-5-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., resolved 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 publcation (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor 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. OP2-171

Decided: July 26, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 163023, filed July 19, 1982. Applicant: ALLEN W. GRIFFITH AND L. FAYE GRIFFITH, 13395 Quail Roost Drive, Miami, FL 33177. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515-244-2329. Transporting *Food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163042, filed July 20, 1982. Applicant: JOHN M. VANCE, d.b.a. MOBILE AIRE TRANSPORT CORP., 6065 South Country Club, Tucson, AZ 85706. Representative: John M. Vance (same address as applicant), 602-889-6301. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP2-173

Decided: July 29, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 163093, filed July 23, 1982. Applicant: S & M SYSTEMS, INC., 9138 Euclid Court, Manassas, VA 22110. Representative: Robert J. Gallagher, 1000

Connecticut Ave. NW, Suite 1200, Washington, DC 20036, 202–785–0024. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163103. filed July 22, 1982. Applicant: INTERNATIONAL TRANSPORTATION CORP., 17 Battery Place, New York, NY 10004. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201–234–0301. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–21272 Filed 8–5–82; 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, ar 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 issue.

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. OP2–172

Decided: July 26, 1982.

By the Commission, Review Board 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 123383 (Sub-99), filed July 7, 1982. Applicant: BOYLE BROTHERS, INC., R.D. #2, Box 329C, Medford, NJ 08055. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA and DC.

MC 146343 (Sub-17), filed July 19, 1982. Applicant: SOUTHERN EXPRESS CORPORATION, 505 South Ocean Blvd., Pompano Beach, FL 33062. Representative: Warren V. Picillo, Jr., Two Sawyer Drive, Coventry, RI 02816, 401–822–0878. 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 147812 (Sub-3), filed July 19, 1982. Applicant: ANTHONY W. DAUITO, d.b.a. DAUITO'S EXPRESS, 3526 Northwest Blvd., Vineland, NJ 08360. Representative: Wilmer B. Hill, Suite 366–1030, 15th Street NW., Washington, D.C. 20005, 202–296–5188. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Alexandria, VA, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA, RI, and VA.

MC 152542 (Sub-2), filed July 19, 1982. Applicant: DAVID TAYLOR, 8265 Shallowford Rd., Lewisville, NC 27023. Representative: David Taylor (same address as applicant), 919–945–3847. Transporting *furniture*, between points in NC, on the one hand, and, on the other, those points in the U.S., in and east of MN, IA, KS, OK, and TX.

MC 154432 (Sub-1), filed July 19, 1982. Applicant: FORTY EIGHT TRANSPORT, INC., 17135 Westview, So. Holland, IL 60473. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602, (312) 236–8225. Transporting *photo chemicals and related articles, glassware, electric wire, transport chains, belting, agricultural iron implement parts and related articles, steel and brass screws and nuts*, between Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155723 (Sub-2), filed July 20, 1982. Applicant: SYSTEM 81 EXPRESS, INC., P.O. Box 23243, Knoxville, TN 37922. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210, 703–525–4050. Transporting (1) *machinery and metal products*, between points in TN, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *petroleum, natural gas, and their products, chemicals and related products, and rubber and plastic products*, between points in TN, IL, TX, CO, CA, OH, KY, NC, FL, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (3) *minerals, clay, concrete, glass and stone products*, between points in AL and GA, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (4) *such commodities* as are dealt in or used by chain grocery, drug, hardware, and food business houses, between points in the U.S. (except AK and HI).

MC 156932 (Sub-2), filed July 19, 1982. Applicant: PALLET PRODUCTS, INC., P.O. Box 70, Des Plaines, IL 60017. Representative: Elaine M. Conway, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, 312–263–1600. Transporting *building products*, between points in the

U.S., under continuing contract(s) with Grudy Industries, Inc., of Joliet, IL.

MC 157012 (Sub-2), filed July 19, 1982. Applicant: JAMES W. BUCKALEW, d.b.a. BUCK'S TRANSPORT CO., Box 81, Bethany, MO 64424. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245–4300. Transporting *building materials,* between points in Webster County, IA, on the one hand, and, on the other, points in DuPage County, IL.

MC 157232, filed July 6, 1982. Applicant: STEVEN GRANDPRE, d.b.a. GRANDPRE TRUCKING, Conde, SD 57434. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101–1103, (605) 335–1777. Transporting *food and related products, glass products, plastic articles, and chemicals and related products,* between points in SD, on the one hand, and, on the other, points in CO, IA, ID, IL, KS, MN, MO, ND, NE, OK, WA and WI.

MC 157653 (Sub-1), filed July 6, 1982. Applicant: ARNOLD J. McKAY AND DONALD GENE McKAY, d.b.a. TWINS TRUCKING, 1130 James Rd., Bakersfield, CA 93303. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of ground clay products, between points in the U.S., under a continuing contract(s) with Lowe's, Inc., of South Bend, IN.

MC 159192, filed July 2, 1982. Applicant: R & J TRANSPORTATION, INC., R.D. #4, Box 4389–A, Pottsville, PA 17901. Representative: Lee E. High, P.O. Box 8551, Reading, PA 19603, (215)376–6721. Transporting *passengers and their baggage,* in round-trip charter operations, between points in Schuylkill County, PA, on the one hand, and, on the other, points in CT, MA, MD, DE, FL, IL, TN, MI, NH, VT, NJ, NY, SC, OH, VA, WV, WI and DC.

MC 162113, filed July 2, 1982. Applicant: J. E. TRANSPORT INC., 885 Main St., West, Listowel, Ontario, Canada N4W 3H8. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between ports of entry on the international boundary line between the United States and Canada (1) on the Niagara River, on the one hand, and, on the other, Buffalo and Niagara Falls, NY, and (2) on the St. Lawrence River, on the one hand, and, on the other, Alexandria Bay, Ogdensburg and Rooseveltown, NY.

MC 162293, filed July 19, 1982. Applicant: EAGLE ENTERPRISES INCORPORATED, d.b.a. EEI TRUCKING, P.O. Box 481, Winnebago, MN 56098. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Trransporting (1) *plastic pipe and fittings,* and (2) *concrete products,* between points in Faribault County, MN, on the one hand, and, on the other, points in IA, IL, KS, MO, MT, ND, NE, SD, and WI.

Volume No. OP2–174

Decided: July 29, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 682 (Sub-35), filed July 13, 1982. Applicant: BURNHAM VAN SERIVCE, INC., 5000 Burnham Blvd., Columbus, GA 31907. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036–5391, (202) 887–5868. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with (a) Lockheed Missiles and Space Company, Inc., of Sunnyvale, CA; (b) Occidental Petroleum Corporation, and its subsidiaries (Occidental Chemcial Corporation, Occidental Oil and Gas Company, Island Creek Coal Company, Iowa Beef Processors, Inc., Occidental Oil Shale Company, Occidental Minerals Company, Occidental Research Corporation, Occidental Engineering Company, and Zoecan Corporation), of Houston, TX; (c) Republic Airlines, of Minneapolis, MN; and (d) Wang Laboratories, Inc., of Tewksbury, MA.

MC 25823 (Sub-16), filed July 16, 1982. Applicant: WERCH TRUCKING COMPANY, INC., Route #2, Box 113, Berlin, WI 54923. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *foundry products and metal products,* between points in Clark County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 52793 (Sub-99), filed July 1, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. 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 Minnesota Mining & Manufacturing Company, of St. Paul, MN.

MC 107012 (Sub-776), filed July 21, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant), 219–429–2234. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Sperry Corp., of New York, NY.

MC 128372 (Sub-3), filed July 16, 1982. Applicant: PHILPOT CONTRACTING COMPANY, INC., P.O. Box 44004, Atlanta, GA 30336. Representative: Raymond F. Philpot (same address as applicant), (404) 344–0174. Transporting *scrap metal telephone parts and cable and reels,* between points in GA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with Southern Bell Telephone & Telegraph Company, of Atlanta, GA.

MC 140363 (Sub-19), filed July 16, 1982. Applicant: CHAMP'S TRUCK SERVICE, INC., 7712 Swift St., P.O. Box 1233, Meraux, LA 70075. Representative: Edward A. Winter, 235 Rosewood Dr., Metairies, LA 70005, (504) 835–4724. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AL, AR, FL, GA, KY, LA, MS, MO, NJ, NY, OH, OK, PA, TN, and TX.

MC 143652 (Sub-2), filed July 15, 1982. Applicant: RESOURCE RECOVERY CORPORATION, 5501 Airport Way South, Seattle, WA 98108. Representative: Bruce A. Wolf, 2120 Pacific Bldg., Seattle, WA 98104, (206) 624–5370. Transporting *wood treatment solutions and sludges,* between points in the U.S. under continuing contract(s) with J H Baxter & Company, of Arlington, WA.

MC 145242 (Sub-20), filed July 21, 1982. Applicant: CASE HEAVY HAULING, INC., P.O. Box 267, Warren, OH 44482. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, 614–228–8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 146553 (Sub-31), filed July 15, 1982. Applicant: ADRIAN CARRIERS, INC., 8938 N. Zenith, Davenport, IA 52804. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312, (515) 274–4985. Transporting (1) *food and related products,* between points in Linn County, IA on the one hand, and, on the other, St. Louis, MO and Columbus, OH. (2) *suitcases, briefcases and related articles,* between Denver, CO on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR

and LA, and (3) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Tazwell and Peoria Counties, IL, on the one hand, and, on the other, points in the U.S., (except AK and HI).

MC 147642 (Sub-3), filed June 30, 1982. Applicant: TRANSPORT LEASING, INC., P.O. Box 1904, Fort Smith, AR 72902. Representative: Robert L. Mendenhall (Same address as applicant) 501–785–5426. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Fort Smith, AR on the one hand, and, on the other, points in IL, ID, MO, TX, and TN under continuing contract(s) with Champion International Corporation, of Stamford, CT.

MC 147642 (Sub-4), filed July 20, 1982. Applicant: TRANSPORT LEASING, INC., P.O. Box 1904, Fort Smith, AR 72902. Representative: Robert L. Mendenhall (same as applicant) (501) 785–5426. Transporting *food and related products,* between points in Sebastian County, AR, on the one hand, and, on the other, points in FL, GA, IL, MA, MI, MD, NJ, OH, PA, VA, CA, AZ, MO, TN, IN, KY, OR, TX, NE, NM, LA and MS.

MC 150903 (Sub-2), filed July 20, 1982. Applicant: THE H–N TRUCKING CO., INC., 2381 Post Road, Warwick, RI 02886. Representative: Peter J. Rotelli, 170 Westminster St., Suite 1100, Providence, RI 02903, (401) 272–665. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S,, (except AK and HI).

MC 151893 (Sub-2), filed July 19, 1982. Applicant: B & Q DISTRIBUTION SERVICE, INC., RD #4, Baldwinsville, NY 13027. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415. Transporting *such commodities* as are dealt in by chain grocery and food business houses between points in NY and PA, on the one hand, and, on the other, points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV and DC.

MC 153063 (Sub-1), filed July 15, 1982. Applicant: KOHORST BEVERAGE COMPANY, INC., West Sinclair Lewis Ave., Sauk Centre, MN 56378. Representative: Richard P. Anderson, P.O. Box 2581, Fargo, ND 58108, (701) 235–3300. Transporting *food and related products,* between points in Todd and Stearns Counties, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155903 (Sub-1), filed June 30, 1982. Applicant: DAHLIA PLANTATION, INC., Route 2, Box 18, Tallulah, LA 71282. Representative: Gene Laird (same address as applicant), 318–574–0650. Transporting *lumber and such commodities* as are dealt in or used by manufacturers and distributors of lumber, between points in LA and MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159672, filed July 12, 1982. Applicant: PENNEX TRANSPORTATION CO., INC., Eastern Ave. at Pennex Dr., Verona, PA 15147. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, 414–722–2848. Transporting (1) *plastic products and related products,* (a) between points in Lawrence County, PA, on the one hand, and, on the other, points in IL, IN, KY, MD, MI, NJ, NY, OH, SC, VA and WV, (b) between points in Washtenaw County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (c) between points in Passaic County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI); (2) *food and related products,* between points in Allegheny County, PA, on the one hand, and on the other, points in AR, FL, GA, IL, IN, KY, MD, MI, MO, NJ, NY, OH, TN and VA, (3) *pulp, paper and related products,* between points in Allegheny County, PA, on the one hand, and, on the other, points in MI and OH, (4) *petroleum products,* between points in Allegheny County, PA, on the one hand, and, on the other, points in Essex and Middlesex Counties, NJ and Jefferson County, LA, (5) *magnesium sulphate and epsom salts,* between points in Passaic County, NJ, on the one hand, and, on the other, points in AL, GA, IL, KS, MA, MI, MO, MS, NC, NE, NY, OH, PA, TX and WI, (6) *cosmetics, perfumes, toilet articles and drugs,* between points in Allegheny and Westmoreland Counties, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (7) *such commodities* as are dealt in and used by grocery stores, between points in the U.S. (except AK and HI).

MC 160783, filed July 22, 1982. Applicant: THOMAS A. SCHULTE d.b.a. SCHULTE TRANSPORT, P.O. Box 150, Lakeville, MN 55044. Representative: James M. Christenson, 4444 IDS Center, 80 South 8th St., Minneapolis, MN 55402, 612–339–4546. Transporting *paper and related products and furniture and fixtures,* between points in SD, IA, and MN, on the one hand, and, on the other, points in ND, SD, NE, MN, IA, MO, IL, and WI.

MC 161412 (Sub–2), filed July 12, 1982. Applicant: CPI, INC., 5411 South 31st St., Fort Smith, AR 72903. Representative: William S. Jones (same address as applicant), (501) 646–6579 and (214) 637–3650. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Washington County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161773, filed July 19, 1982. Applicant: RC CARTAGE COMPANY, INC., 3888 East 45th Ave., Denver CO 80216. Representative: Edward T. Lyons, Jr., 1600 Lincoln Center Bldg., 1660 Lincoln St., 303–861–4082. Transporting over Regular Routes *General commodities* (except classes A and B explosives, household goods and commodities in bulk), between Denver, CO and North Platte, NE: from Denver over U.S. Hwy 6 to junction Interstate Hwy 76, then over Interstate Hyw 76 to junction Interstate Hwy 80, then over Interstate Hyw 80 to North Platte and return over the same route, serving all intermediate points and off-route points in Boulder, Adams, Jefferson and Arapahoe Counties, CO and Keith and Lincoln Counties, NE.

MC 162552 (Sub-1), filed July 15, 1982. Applicant: RONMAT LEASING, INC., 126 Crosswinds Ct., Murrysville, PA 15668. Representative: Arthur J. Diskin, 402 Law & Finance Bldg, Pittsburgh, PA 15219, (412) 281–9494. Transporting *General commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (including AK but excluding HI), under continuing contract(s) with PPG Industries, Inc., of Pittsburgh, PA.

MC 162572, filed July 1, 1982. Applicant: TRUCK SERVICES, INC., 1590 Industrial Park Rd., Mulberry, FL 33860. Representative: M. Craig Massey, 211 East Lime St., (P.O. Drawer 1109) Lakeland, FL 33802, 813–682–1178. 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 Jewel T Discount Grocery, a division of Jewel Companies, Inc., Barrington, IL.

MC 162642 (Sub-1), filed July 21, 1982. Applicant: CHARLES G. FOSTER, JR. d.b.a. C AND BEA TOURS, RR #2, Box 114, Woodstown, NJ 08098. Representative: Charles G. Foster, Jr. (Same address as applicant) 609–769–2816. As a broker, at Woodstown, NJ, in arranging for the transportation, by motor vehicle of *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, between points in the U.S.

MC 162752, filed July 1, 1982. Applicant: TEXAS REFINERY CORP., 840 North Main, Fort Worth, TX 76106. Representative: Garvin Cox, P.O. Box 711, Forth Worth, TX 76101, 817–332–1161. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK & HI), under continuing contract (s) with (a) Foundry Supply, Inc., of Houston, TX. (b) Panther Chemical Co., of Forth Worth, TX (c) Lehman-Phillips, Inc., of Fort Worth, TX, (d) Motoroyal Oil Co. d.b.a. Royal Oil Co., of Fort Worth, TX and (e) The American Lubricants Col, of Dayton, OH.

MC 162793, filed July 23, 1982. Applicant: ALL POINTS BROKERS, INC., 3445 Paterson Plank Rd., N. Bergen, NJ 07047. Representative: Jack L. Schiller, 123-60 83rd Ave., Kew Gardens, NY 11415, 212–263–2078. 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 Kero-Sun, incorporated, of Kent, CT.

MC 162893, filed July 19, 1982. Applicant: WHITLEY TRUCKING COMPANY, 3820 Crestridge Dr., Charlotte, NC 28210. Representative: Buster Howard Whitley, (Same address as applicant), 704–523–5166. Transporting *textile mill products,* between points in the U.S. (except AK and HI), under continuing contract(s) with White-Piedmont Mop, Inc., of Charlotte, NC.

MC 162923, filed July 12, 1982. Applicant: PATRIOT TRUCKING, INC., P.O. Box 131, Revere, MA 02151. Representative: Hugan R.H. Smith, 26 Kenwood Place, Lawrence, MA 01841, (617)–657–6071. Transporting *general commodities,* (except classes A & B explosives, and commodities in bulk), between points in MA, on the one hand, and, on the other, points in MA, RI, CT, NH, VT, and ME.

MC 162982, filed July 15, 1982. Applicant: JAMES W. GREEN, d.b.a. JAMES W. GREEN PETROLEUM AND TRUCKING, 1829 North 45th Ave., Apt. 2031, Phoenix, AZ 85035. Representative: Andrew V. Baylor, 337 E. Elm St., Phoenix, AZ 85012 (602) 274–5146. Transporting *petroleum, natural gas and their products,* between points in the U.S. (except HI), under continuing contract(s) with Amorient Petroleum, of Phoenix, AZ.

MC 163057, filed July 21, 1982. Applicant: FRANCIS O. FRIEBE, 1825 Piedmont Ave., Duluth, MN 55811. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, 612–333–1341. Transporting *general commodities* (except classes A and B explosives and house goods), between points in the U.S. (except AK and HI), under continuing contract(s) with G & R Enterprises, of Thunderbay Ontario, Canada.

MC 163062, filed July 21, 1982. Applicant: W & W ENTERPRISES, INC., Rte. 1–P.O. Box 78, Booneville, MS 38829. Representative: Phil R. Hinton, 411 Waldron St., P.O. Box 801, Corinth, MS 38834, 601–286–2231. Transporting *furniture,* between points in MS on and north of U.S. Hwy 82, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

FR Doc. 82–21273 Filed 8–5–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (sub-192)]

Rail Carriers; Atchison, Topeka and Santa Fe Railway Co.; Exemption for Contract Tariff ICC–ATSF–C–0037

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101(a) or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, *we find* that the exemption requests meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following condition:

The grant neither shall be construed to mean that the Commission has appoved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on compliant, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: August 2, 1982.

By the Commission, Division 2, Commissioner Andre, Gilliam, and Taylor. Commissioner Gilliam was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–21274 Filed 8–5–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-198]

Rail Carrier; Atchison, Topeka and Santa Fe Railway Co.; Exemption for Contract Tariff ICC–ATSF–C–0014

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101(a) or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly effect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: August 2, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor.

Commissioner Gilliam was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-21275 Filed 8-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-195)]

Rail Carriers; Baltimore and Ohio Railroad Co.; Exemption for Contract Tariff ICC-BO-C-0051

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following condition:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: August 2, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-21279 Filed 8-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-137N)]

Rail Carriers; Conrail Abandonment Between Lancaster Junction and Columbia, Pa;

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its Columbia Industrial Track between (1) milepost 28.3 and milepost 30.7 and (2) milepost 32.3 and milepost 37.2, a distance of 7.35 miles effective February 26, 1982.

The net liquidation value of the line described above between (1) milepost 28.3 and milepost 30.75 and (2) milepost 32.3 and milepost 37.2 is $111,447. If, within 120 days from the date of this publication, Conrail receives bona fide offers for the sale, for 75 percent of the net liquidation value, of these lines it shall sell such lines and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-21269 Filed 8-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-201)]

Rail Carriers; Missouri-Kansas-Texas Railroad Co.; Exemption for Contract Tariff ICC-MKT-C-0182

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101(a) or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following condition:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: August 2, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-21278 Filed 8-4-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29962]

Chicago, Milwaukee, St. Paul and Pacific Railroad Company; Trackage Rights Exemption Between Ortonville, MN and Milbank, SD

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11343 the trackage rights agreement granting Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company to operate between Ortonville, MN and Milbank, SD.

DATES: Exemption effective on August 6, 1982. Petitions to reopen must be filed by August 26, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: William L. Phillips, 516 West Jackson Blvd., Suite 888, Union Station, Chicago, IL 60606

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area, (800) 424-5403—Toll-free for outside the DC area.

Decided: July 29, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Simmons was absent and did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-21271 Filed 8-5-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-197)]

Pittsburgh and Lake Erie Railroad Company; Exemption for Contract Tariff ICC-PLE-C-17

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101(a) or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following condition:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to deterrmine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: August 2, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,
Secretary

[FR Doc. 82-21277 Filed 8-5-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-203)]

Southern Pacific Transportation Co.; Exemption for Contract Tariff ICC-SP-C-0119

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e) and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101(a) or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following condition:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C.)

Decided: August 2, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-21276 Filed 8-5-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-199)]

Union Pacific Railroad Company Exemption for Contract Tariff ICC-UP-C-0062

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following condition:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: August 2, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-21280 Filed 8-5-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Agency Forms Under Review

August 3, 1982.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, extensions, or revisions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form

must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96–511 applies; (10) The name and telephone number of the person or office responsible for OMB review.

Copies of the proposed forms and supporting documents may by obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

DEPARTMENT OF JUSTICE

Agency Clearance Officer Larry E. Miesse—202–633–4312

New

- Bureau of Justice Statistics, Office of Justice Assistance, Research and Statistics

National Indigent Criminal Defense Survey

Nonrecurring

State or local governments, businesses or other institutions

Indigent criminal defense programs, general trial jurisdiction courts, county governments funding indigent criminal defense programs: 2,160 responses; 1,244 hours; not applicable under 3504(h)

Andy Uscher—395–4814

Larry E. Miesse,

Department Clearance Officer, Systems Policy Staff, Justice Management Division.

[FR Doc. 82–21294 Filed 8–5–82; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Benefits Review Board; Document Papersize and Conversion to Lettersize Paper for all Documents Submitted to Benefits Review Board

Notice is hereby given that pursuant to the authority contained in Section 21(b) of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 921(b)) and § 801.302 of the Board's Rules and Regulations (20 CFR 801.302) all documents (exclusive of documentary evidence) submitted to the Benefits Review Board shall conform to standard letter dimensions (8.5 by 11 inches). Prior Board practice has been to accept documents without restrictions as to paper size. On and after the effective date of this notice, no document exceeding letter-size dimensions will be accepted by the Board. This action is taken in accordance with General Services Administration Bulletin FPMR B–120 (June 2, 1982).

EFFECTIVE DATE. This notice shall become effective on January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Agnes Kurtz, Clerk, Benefits Review Board, 1111 20th Street, NW, Washington, DC, 20036, telephone 202/653–5106.

Robert L. Ramsey,

Chief, Administrative Appeals Judge.

Julius Miller,

Administrative Appeals Judge.

Ismene M. Kalaris,

Administrative Appeals Judge.

[FR Doc. 82–21076 Filed 8–5–82; 8:45 am]

BILLING CODE 4510–27–M

Occupational Safety and Health Administration

California 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-OSHA), 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 May 1, 1973, notice was published in the **Federal Register** (38 FR 10717) of the approval of the California plan and the adoption of Subpart K to Part 1952 containing the decision.

The California plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. State standards have been revised in accordance with Part 1953 to meet the requirement of adopting Federal Standard revisions and State initiated changes. Accordingly, California has revised these standards and promulgated them in accordance with applicable State procedures. By letter dated March 10, 1982, from Dorothy H. Fowler, Assistant Program Manager, California Occupational Safety and Health Administration to Gabriel J. Gillotti, Regional Administrator, OSHA, and incorporated as part of the plan, the State submitted proof documents concerning standard revisions equivalent to Federal standards for Access to Employee Exposure and Medical Records 29 CFR 1910.20; Walking-Working Surfaces 29 CFR 1910.21, 1910.27 and 1910.30; Powered Platforms, Manlifts and Vehicles-Mounted Work Platforms 29 CFR 1910.66; Personal Protective Equipment 29 CFR 1910.132; General Environmental Controls 29 CFR 1910.141; Materials Handling and Storage 29 CFR 1910.177; Electrical 29 CFR 1910.308; Fire Protection and Prevention 29 CFR 1926.150 and 1926.152; Tools—Hand and Power 29 CFR 1926.304; Ladders and Scaffolding 29 CFR 1926.450 and 1926.451; Floor and Wall Openings, and Stairways 29 CFR 1926.500 and 1926.501; Motor Vehicles, Mechanized Equipment, and Marine Operations 29 CFR 1926.600 and 1926.602, Excavations, Trenching, and Shoring 29 CFR 1926.650 and Power Transmission and Distribution 29 CFR 1926.955. The State-initiated standards changes with no comparable Federal standard concerned revisions pertaining to the subject matter of: Nonpropagating Liquid, Loading Ramp, and Labeling of Isocyanates.

2. *Decision.* Having reviewed the State submission in comparison with Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards. The detailed standards comparison is available at the locations specified below.

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, 450 Golden Gate Avenue, Room 11349, San Francisco, California 94102, and California Occupational Safety and Health Administration, Room 701, 525 Golden Gate Avenue, San Francisco, California 94102; and Directorate of Federal Compliance and State Programs, Room N3619, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public Participation.* Under § 1953.2(c) of this chapter, 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 California plan as a proposed change and making the OSHA Regional Administrator's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective August 6, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at San Francisco, California this 9th day of April 1982.

Gabriel J. Gillotti,

Regional Administrator.

[FR Doc. 82–21357 Filed 8–5–82; 8:45 am]

BILLING CODE 4510–26–M

Office of Pension and Welfare Benefit Programs

[Application No. D–3436]

Proposed Exemption for Certain Transactions Involving Bank of America; Located in San Francisco, California

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the use of assets of multiemployer pension plans (the Plans) for permanent loans to borrowers (the Borrowers) who will use the loan proceeds to pay off construction loans originated by Bank of America (the Bank), which serves as corporate trustee or co-trustee for such Plans. The proposed exemption, if granted, would affect the Bank, the Plans and their participants and beneficiaries.

DATES: Written comments must be received by the Department on or before September 7, 1982.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3436. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed by the Bank, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Bank is the largest savings institution in the United States. Its services as trustee or corporate co-trustee for the Plans consist solely of holding, receiving, handling and disbursing funds as instructed by the union-management board of trustees or other independent third party fiduciary. The Bank has no discretionary authority with regard to the management or disposition of the assets of the Plans.

2. In the ordinary course of its lending activities, the Bank makes construction loans to the Borrowers, who are developers of real property for projects such as office buildings, shopping centers, apartment houses, single family dwellings or condominium developments. The Borrower, without the assistance of the Bank, obtains a commitment for a permanent loan to pay off the construction loan at such time as the construction of the project is completed. The Borrower may obtain a permanent loan commitment from one of the Plans either at a time prior to or after the Bank's construction loan commitment. The permanent loan funds would be disbursed to the Borrower upon completion of the construction of the project and the Borrower may use the permanent loan funds to pay off the construction laon to the Bank.

3. The Bank would play no role in securing permanent loans for its construction loan customers, nor would it play any role in the decisions of the Plans to issue permanent loans. There is no scheme or arrangement between the Borrowers, the Bank and the Plans regarding construction and permanent loan financing.

4. The applicant represents that investment by employee benefit plans in real estate ventures as permanent lenders is common in the current real estate financing market. The applicant also asserts that an exemption is appropriate for the transactions described herein because of the lack of potential for abuse and because a denial would unduly restrict a Plan's choice of potential Borrowers to those who have not secured a construction loan from the Bank, which is merely a custodian for the Plans.

5. In summary, it is represented that the proposed transactions satisfy the statutory criteria of section 408(a) for the following reasons:

a. The Bank would have no discretionary authority regarding the management or disposition of the assets of the Plans;

b. Plan fiduciaries who are independent of the Bank would make all investment decisions for the Plans, including all decisions relating to the transactions proposed herein;

c. The Bank would play no role in securing permanent loans for its construction loan customers; and:

d. It is represented that there would be no scheme or arrangement between the Borrowers, the Bank or the Plans, regarding construction and permanent loan financing.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a

fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and:

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)A) through (D) of the Code shall not apply to the use of the assets of the Plans for permanent mortgage loans to the Borrowers, who will use the loan proceeds to pay off construction loans originated by the Bank.

The proposed exemption, if granted, will be 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 transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of July 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. 82-21330 Filed 8-5-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3371]

Proposed Exemption for Certain Transactions Involving the Donald H. Bohne, D.D.S., P.A. Profit Sharing Plan Located in Tucker, Georgia

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of two mortgage loans to the Donald H. Bohne, D.D.S., P.A. Profit Sharing Plan (the Plan) by Dr. Donald H. Bohne (Dr. Bohne), a disqualified person with respect to the Plan. Because Dr. Bohne is the sole shareholder of Donald H. Bohne, D.D.S., P.A. (the Employer) and the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code. The proposed exemption, if granted, would affect the Plan, Dr. Bohne and any other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before September 8, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–3371. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. Dr. Bohne is the only participant in the Plan and is the trustee of the Plan. The Plan provides for a participant to direct the investment of assets held in his individual account. As of September 30, 1981, the Plan had total assets of $168,092.

2. Dr. Bohne presently holds two mortgages resulting from the sale of two improved parcels of real property on February 23, 1981 (the 1981 Mortgage) and February 3, 1982 (the 1982 Mortgage; collectively, the Mortgages). The sales were made to unrelated third parties.

3. The 1981 Mortgage is in the total principal amount of $65,000, bears interest at the rate of 14% per annum and is payable over a term of 25 years. It is secured by property located at 4940 LaVista Road, Tucker, Georgia, which was sold for a price of $75,000. The 1981 Mortgage is a wraparound mortgage note whereby the mortgagee (Dr. Bohne) is obligated to make payments from the

proceeds of the mortgagor's payments under a first mortgage dated December 12, 1972. This first mortgage is in the total principal amount of $24,000, bears interest at the rate of 7% per annum, and is due December 10, 1997. As of April, 1982, this first mortgage had an outstanding principal balance of approximately $19,000. The mortgagee with respect to the first mortgage is an unrelated third party with respect to the Plan. The net monthly cash flow to Dr. Bohne with respect to the 1981 Mortgage is $612.

4. The 1982 Mortgage is in the total principal amount of $59,000, bears interest at the rate of 14% per annum, and is payable over a 25 year term. The 1982 Mortgage is secured by property located at 4946 LaVista Road, Tucker, Georgia which was sold for a price of $69,000. The 1982 Mortgage is also a wraparound mortgage note whereby Dr. Bohne is subject to obligations under a certain first mortgage dated March 9, 1972. The first mortgage had an outstanding principal amount, as of April, 1982, of approximately $10,500, bears interest at 9% per annum, and is for a 25 year term. The net monthly cash flow to Dr. Bohne with respect to the 1982 Mortgage is $573.29. The mortgagee with respect to the first mortgage is an unrelated third party with respect to the Plan.

5. Both Mortgages provide that, inter alia, in the event the mortgagor sells or assigns the property securing the Mortgage without the written consent of Dr. Bohne, the indebtedness under the Mortgage is due and payable immediately. The Mortgages also provide that the mortgagors will maintain current hazard insurance on the properties in an amount sufficient to equal the indebtedness on the subject properties.

6. Dr. Bohne requests an exemption to sell the Mortgages to the Plan. The Mortgages will be held solely for the account of Dr. Bohne. After sale the Plan will accede to all of the rights and obligations of Dr. Bohne under the Mortgages. Fidelcor Mortgage, a corporation engaged in the secondary mortgage market, has represented to Dr. Bohne that the 1981 Mortgage and the 1982 Mortgage could, respectively, be sold for $29,344 and $28,000. Dr. Bohne proposed to sell the Mortgages for cash to the Plan for a total consideration of $57,300, an amount not more than the fair market value of the Mortgages. Dr. Bohne will service the Mortgages for the Plan at no charge.

7. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 4975(c)(2) of the Code because (a) Dr. Bohne is the only participant who will be affected by the sale and he desires that the transaction be consummated; and (b) the Mortgages will be sold at no more than their fair market value as of the date of sale.

Notice to Interested Persons

Because Dr. Bohne is the only participant in the Plan there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, 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 cash sale of the Mortgages by Dr. Bohne to the Plan (including the assumption by the Plan of Dr. Bohne's liabilities under the first mortgages), provided that the sales price of each Mortgage is not greater than its fair market value as of the date of sale.

The proposed exemption, if granted, will be 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 the exemption.

Signed at Washington, D.C., this 30th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–21335 Filed 8–5–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. L–3372]

Proposed Exemption for Certain Transactions Involving the Florida Painters District Council No. 56 Vacation Trust Fund Located in Miami, Florida

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt the proposed transfer of certain funds by the Painters District Council No. 56 Vacation Trust Fund (the Vacation Plan) to the Florida Painters and Decorators Health and Hospitalization Fund (the Painters Health Plan) and the Painting, Drywall and Allied Trades Health and Hospitalization Plan (the Allied Health Plan). The proposed exemption, if

granted, would affect the participants and beneficiaries of the Vacation Plan, the Painters Health Plan and the Allied Health Plan and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before September 27, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. L–3372. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(b)(2) of the Act. The proposed exemption was requested in an application filed by the Vacation Plan, pursuant to section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Vacation Plan, the Painters Health Plan and the Allied Health Plan are welfare plans established in accordance with section 302 of the Labor-Management Relations Act of 1947, as amended. The Vacation Plan has no present participants. The Painters Health Plan and the Allied Health Plan have approximately 625 and 420 participants, respectively. The Vacation Plan was established in 1970. However, since September of 1975 no contributions have been made to the Vacation Plan, because in 1975 contributions to the Vacation Plan were not included in collective bargaining agreements between union and employer associations. Formerly, members of the Local Union Numbers 160, 325, 1925 and 1942 affiliated with the Florida Painters District Council No. 56 constituted the participants of the Vacation Plan and the Painters Health Plan. In September of 1978, the Florida Painters District Council No. 56 dissolved. Members of Local Unions 160, 325 and 1925 remained participants of the Painters Health Plan and members of Local Union 1942 became participants of the Allied Health Plan.

Some of the Trustees of the Vacation Plan are also Trustees of the Painters Health Plan and the Allied Health Plan. The Trustees have approved the termination of the Vacation Plan effective June 30, 1982.

2. The applicant is requesting an exemption to permit the transfer of the unclaimed reserve funds of the Vacation Plan to the Painters Health Plan and the Allied Health Plan. The unclaimed reserves of the Vacation Plan total approximately $160,000, as of April 25, 1982, of which $65,000 represents accrued interest. The Trustees represent that all known claims by participants of the Vacation Plan have been honored. The Trustees of the Vacation Plan represent that they have engaged in a diligent campaign to locate participants entitled to the remaining benefits. The local unions which had participants in the Vacation Plan were asked for the last known address of those participants who still had unclaimed vacation benefits. Letters were sent to those participants advising them to claim their benefits. Thereafter, the Trustees placed advertisments in the Miami Herald in August and October of 1981 in an attempt to locate participants entitled to benefits remaining in the Vacation Plan. The advertisements included a statement regarding to Trustees' intent to disburse any unclaimed reserves to the Painters Health Plan and the Allied Health Plan.

3. The Vacation Plan proposes to transfer 56% of its unclaimed reserves to the Painters Health Plan. Fifty-six percent of the Vacation Plan's participants belonged to or were represented by Locals 160, 365 and 1925, members of which are presently participants of the Painters Health Plan. Similarly, 44% of the unclaimed reserves of the Vacation Plan will be transferred to the Allied Health Plan. Forty-four percent of the Vacation Plan's participants belonged to or were represented by Local Union 1942, members of which are presently participants of the Allied Health Plan. The Painters Health Plan and the Allied Health Plan have agreed to hold harmless and to indemnify the Vacation Plan for any costs or damages which could be assessed against the Vacation Plan as a result of the transfer of the unclaimed reserves. Also, the Painters Health Plan and the Allied Health Plan agree to pay any valid claims of participants of the Vacation Plan subsequent to the date of transfer.

4. The Trustees state that the proposed transfer of the unclaimed reserves of the Vacation Plan would eliminate the expenditure of assets of the Vacation Plan necessary for the administrative costs of maintaining the Vacation Plan. Also, the unclaimed reserves of the Vacation Plan would be utilized to increase the benefits available to participants of the Painters Health Plan and Allied Health Plan, the same group of participants who were participants of the Vacation Plan.

5. In summary, the applicants represent that the proposed transfer of the unclaimed reserves of the Vacation Plan to the Painters Health Plan and the Allied Health Plan will satisfy the statutory criteria of section 408(a) of the Act because: (a) it is a one-time transfer of the unclaimed reserves of the Vacation Plan which would eliminate the administrative costs of maintaining the Vacation Plan; (b) the unclaimed reserves of the Vacation Plan will be utilized to increase the available benefits to participants of the Painters Health Plan and the Allied Health Plan, the same group who were participants in the Vacation Plan; (c) the Trustees represent they have made a diligent search for all participants of the Vacation Plan who may have valid claims; and (d) the Painter Health Plan and the Allied Health Plan would pay any valid claim of participants of the Vacation Plan subsequent to the date of transfer and will indemnify the Vacation Plan for all costs or damages which could be assessed against the Vacation Plan as the result of the transfer.

Notice to Interested Persons

Notice of the proposed exemption will be provided within 20 days of publication in the **Federal Register.** Notice will be provided to all participants and beneficiaries of the Vacation Plan, the Painters Health Plan and the Allied Health Plan by posting a copy of the notice of proposed exemption as it appears in the **Federal Register** along with a copy informing all interested persons of their right to comment or request a hearing on the proposed exemption at all local union halls.

Sponsoring employer associations will be mailed a copy of the notice of pendency as it appears in the **Federal Register** and such notice will be

distributed to all respective members and employers.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(10)(B) of the Act.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(a), 406(b)(1) or 406(b)(3) of the Act.

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is is fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(b)(2) of the Act shall not apply to the proposed transfer of the unclaimed reserves of the Vacation Plan to the Painters Health Plan and the Allied Health Plan. The proposed exemption, if granted, will be 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 the exemption.

Signed at Washington, D.C., this 29th day of July, 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. 82–21331 Filed 8–5–82; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 82–132; Exemption Application No. D–3287]

Exemption From the Prohibitions for Certain Transactions Involving the Hammer, Siler, George Associates Retirement Plan Located in Silver Spring, Md.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will permit the proposed loan of $145,000 (the Loan) by the Hammer, Siler, George Associates Retirement Plan (the Plan) to 1111 Bonifant Associates (the Partnership), a party in interest with respect to the Plan; and other transactions to be executed in accordance with the terms of the loan.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander 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) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 8, 1982, notice was published in the **Federal Register** (47 FR 24882) 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 (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 the above-described transactions. 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 has represented that a copy of the notice was provided to interested persons in accordance with the provisions of 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 (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 (1) the Loan of $145,000 by the Plan to the Partnership; and (2) other transactions to be executed in accordance with the terms of the Loan, including the commitment by Hammer, Siler, George Associates, Inc., the sponsor of the Plan, to purchase the note securing the Loan from the Plan for an amount equal to its outstanding principal balance plus accrued interest in the event of any default by the Partnership which is not cured within 90 days; provided that the Loan and other transactions to be consummated pursuant to the terms of the Loan are not less favorable to the Plan than those obtainable in arm's-length transactions with an unrelated third party at the time of the consummation of the transactions.

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 transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of July, 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. 82-21340 Filed 8-5-82; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-3057, D-3058 and D-3059]

Proposed Exemption for Certain Transactions Involving the Patrick Henry National Bank Integrated Profit Sharing Plan, the Peoples Bank of Virginia Integrated Profit Sharing Plan and the First National Bank of Rocky Mount Integrated Profit Sharing Plan Located in Bassett, Danville, and Rocky Mount, Va.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt transactions involving the purchase, holding and repurchase (if necessary) by the Patrick Henry National Bank Integrated Profit Sharing Plan (the Patrick Henry National Bank Plan), the Peoples Bank of Virginia Integrated Profit Sharing Plan (the Peoples Bank Plan) and the First National Bank of Rocky Mount Integrated Profit Sharing Plan (the First National Bank Plan) (collectively, the Plans) of participation interests (Participation Certificates) in certain promissory notes (the Notes) issued to Patrick Henry National Bank (Patrick Henry National Bank), Peoples Bank of Danville (Peoples Bank) and First National Bank of Rocky Mount (First National Bank) (collectively, the Employers). The Notes represent loans made by the Employers to unrelated parties and are guaranteed by the U.S. Small Business Administration (the SBA). The proposed exemption, if granted, would affect the Plans, the Trustees, the participants and beneficiaries of the Plans, the Employers and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before September 20, 1982.

Temporary Nature of Exemption: This exemption is temporary in nature and will expire five years after the date of grant with respect to a Plan's purchase of Participation Certificates. The exemption for the holding and repurchase of the Participation Certificates will extend beyond the five year period provided the Participation Certificates were acquired by the Plan during such five year period.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application Nos. D-3057, D-3058 and D-3059. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and from 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. The proposed exemption was requested in an application filed on behalf of the Plans, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employers are national and state banking institutions established

during the 1970's and located in Virginia. The banks maintain no parent-subsidiary, brother-sister or combined group relationships. The Employers do, however, share certain common expenses (i.e., centralized purchasing of supplies and equipment and a common service bureau for computer and courier services) which enables them to realize greater economies of scale as well as to compete with larger banks.

2. The Plans are profit sharing plans established by the respective Employers in 1980. Each Plan has two trustees, one of whom, Mr. Worth H. Carter, Jr. (Mr. Carter), is a trustee common to the three Plans. Mr. Carter is the Chairman of the Board of the Employer banks. He is also the President of the Patrick Henry National Bank and Peoples Bank. Mr. Carter is a salaried employee of Patrick Henry National Bank and a participant in that Employer's Plan. The other trustees who undertake fiduciary duties for the Plans in conjunction with Mr. Carter are Mr. James Thomasson for the Patrick Henry National Bank Plan, Mr. Averitt Brumfield for the Peoples Bank Plan and Mr. James E. Hastings, Jr. for the First National Bank Plan. As of December 31, 1981, the Patrick Henry National Bank Plan had eleven participants and total assets of $78,504; the Peoples Bank Plan had eighteen participants and assets totaling $65,699; and the First National Bank Plan had twelve participants and total assets of $38,398.

3. The application requests an exemption to allow each Plan to purchase and hold at its discretion, Participation Certificates in Notes guaranteed by the SBA. The Notes represent SBA loans made by an Employer bank to unrelated parties. The loans are secured by first lien interests in real and/or personal property and have maturities of approximately six to ten years. The SBA loans bear variable interest rates ranging from 1 to 2¾ percent above the New York prime rate. The interest rate is adjusted quarterly. Loan payments are made monthly by the borrower.

The application indicates that SBA loan requests are processed by each Employer bank and are then sent to the Richmond, Virginia office of the SBA for approval. Once a loan is "closed", the guaranty (typically 90 percent of the loan) constitutes a "general obligation of the United States", secured by its full faith and credit. In the event a loan goes into default, the Employer will notify the SBA's Richmond office of the situation. Then, within thirty days of receipt of the Employer's demand for payment, the SBA will pay the Employer (without recourse) the guaranteed portion of the loan plus interest accruing to the date of payment.

4. Under the terms of the proposed transactions, the Plans will purchase, for cash, a portion of a Note which is covered by the SBA guaranty. The Participation Certificate will generally be purchased at its pro rata face value. If a Plan acquires a Participation Certificate at more or less than its pro rata face value, the purchase price will be equal to the pro rata price of an equivalent SBA guaranteed loan (i.e., one bearing the same interest rate and for a similar term) on the open market. No Plan will purchase a Participation Certificate representing a loan made to a person or entity considered to be a party in interest with respect to the Plans. Also, under no circumstances will a Plan be obligated to purchase a Participation Certificate which its Trustees deem to be detrimental to the best interests of the Plan and its participants and beneficiaries.

5. A Plan's participation in Notes representing loans guaranteed by the SBA will also be subject to the following limitations: (a) No Plan will be permitted to commit more than 10 percent of its assets to any single SBA loan; (b) not more than 50 percent of a Plan's assets will be invested in the Participation Certificates; (c) an Employer bank will continue to hold at least a 50 percent interest in that portion of a Note not transferred to a Plan; and (d) the Employer bank will be obligated to repurchase a Participation Certificate sold to the Plan at the demand of the Plan upon 15 days written notice.

6. Each Employer bank will be responsible for servicing without charge Participation Certificates sold to its Plan and for any bookkeeping or accounting services associated therewith. Documentation will be kept in duplicate of all purchases of Participation Certificates, separating each Plan's interest from that of the Employer. The records will be maintained for a period of six years. In addition, each of the Employers and the appropriate trustees will enter into a binding contract setting forth the terms and conditions of the SBA Note purchase arrangements.

The Employer bank will continue to collect principal and interest payments due under a Note. Such payments would then be allocated on a pro rata basis between the Plan and Employer in accordance with the respective ownership interests of each. Payments will be remitted to the Plan within five business days of their receipt by an Employer.

7. It is represented that the Employer banks are subject to periodic audit by both federal and state banking examiners. Part of the examiners' audit procedures covers transactions between an Employer bank and its retirement Plan. In the event a bank were to benefit from dealing with its retirement Plan, it would be subject to criticism and possibly corrective action from bank examiners. This close regulation of each Employer bank is considered to be an independent safeguard by the applicant.

8. In summary, the application states that the proposed transactions meet the statutory criteria of section 408(a) of the Act because: (a) A Plan will purchase only that portion of a Note that is protected by the SBA guaranty; (b) a Plan will not incure any fees or commissions in connection with such purchases; (c) each transaction will be carefully documented by binding agreements and records separating each Plan's interest from that of an Employer; (d) a Plan's participation in a Note guaranteed by the SBA will be limited to not more than 10 percent of the Plan's total assets, and not more than 50 percent of a Plan's total assets will be invested in the Particiaption Certificates; (e) the Employer will retain at least a 50 percent interest in that portion of a Note not transferred to a Plan; (f) the Employer will be obligated to repurchase a Participation Certificate from a Plan upon demand by the Plan upon 15 days written notice; and (g) the trustees of the Plans represent that the proposed transactions are appropriate for the Plans and in the best interests of their participants and beneficiaries.

Notice to Interested Persons

Notice of the pending exemption will be provided to all participants and beneficiaries of the Plans within 10 days of the publication of the notice of pendency in the **Federal Register**. The notice will include a copy of the notice of pendency as published in the **Federal Register** and will inform interested persons of their right to comment and/or request a hearing with respect to the pending exemption. Notice will be provided to interested persons by mail and through posting copies of the notice of pendency in and about work locations and offices of the Employers.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified

person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (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:

1. From the date of this exemption until five years therafter to the Plans' purchase, holding and repurchase; and

2. Subsequent to the expiration date of this exemption to the holding and repurchase (provided such interest was acquired during the period such exemption was in effect)[1] of Participation Certificates in SBA loans from the Employers, provided that the following conditions are met:

A. Only that portion of the SBA loan that is actually covered by the guaranty shall be the subject of a Participation Certificate acquisition by a Plan.

B. The Participation Certificates are sold to a Plan for cash with no sales commissions charged and an Employer agrees to service the entire SBA loan at no fee to the Plan.

C. The interest rate and duration of the Participation Certificate is identical to the terms of the SBA loan.

D. None of the loan customers are parties in interest with respect to the Plans.

E. The purchase price of the Participation Certificate will be determine by comparing the market interest rate at the time the participation interest is purchased with the interest rates of the SBA loan, however, in no event will the purchase price to a Plan be less favorable than the one obtainable in a similar transaction with an unrelated third party.

F. Any Participation Certificate acquisition by a Plan shall include a written repurchase provision by an Employer at the demand of the Plan upon 15 days written notice; such requirement for repurchase to be at the absolute discretion of the Plan. Should the repurchase provision be exercised, the purchase price shall be the unpaid principal balance, provided this amount is not less than the fair market value at the time of sale, plus any accrued interest payments.

G. In the event of a default by the borrower on any payment due under the terms of the SBA loan, an Employer will be called upon to honor its obligation under condition F of this exemption. A loan shall be considered to be in default for purposes of this exemption when it would be considered in default under the SBA provisions governing a guaranty for such loans.

H. An Employer shall continue to hold at least a 50 percent interest in that portion of the SBA loan not transferred to a Plan by a Participation Certificate.

I. The acquisition of a Participation Certificate from an Employer involving an SBA loan shall not cause the Plan to hold:

(1) More than 50 percent of the current value (as that term is defined in section 3(26) of the Act) of Plan assets in such participation interests; and

(2) More than 10 percent of Plan assets (as defined above) in any single transaction or with the same borrower.

J. Each Plan shall maintain or cause to be maintained for a period of six years from the date of each transaction such records as are necessary to enable the Department to determine whether the conditions of this exemption have been met, except that:

(1) A prohibited transaction will not be deemed to have occurred if due to circumstances beyond the control of the trustees or other Plan fiduciaries, such records are lost or destroyed prior to the end of such six year period; and

(2) An Employer shall not be subject to civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph K below.

K. Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph J are unconditionally available at their customary location for examination during the normal business hours by:

(1) The Internal Revenue Service;

(2) The Department of Labor;

(3) Plan participants and beneficiaries;

(4) Any employer of Plan participants;

(5) Any employee organization any of whose members are covered by the Plan; or

(6) Any duly authorized employee or representative of a person described in

[1] The Department has traditionally viewed a guaranty to repurchase from the plan by a party in interest as a prohibited transaction under the Act. Because the terms of the Participation Certificate provide for a guaranteed repurchase on demand during the entire term of such Participation Certificate, the terms of the exemption must necessarily extend to provide relief for the operation of the safeguards incorporated in the conditions. Therefore, the relief provided includes the "holding and repurchase" of the Participation Certificates. Additionally, in order that a Plan not be required to dispose of its holdings in Participation Certificates issued by an Employer during the period such exemption is in effect, the Department intends that the language of the exemption also be construed to provide continuing relief for the "holding" after the expiration of the exemption for those Participation Certificates purchased before such date in accordance with the terms of the exemption.

subparagraph (1) through (5) of this paragraph.

The proposed exemption, if granted, will be 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 transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of July 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. 82-21332 Filed 8-5-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-131; Exemption Application No. D-3021]

Exemption From the Prohibitions for Certain Transactions Involving the JMB Institutional Realty Corporation Located in Chicago, Ill.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption allows collective investment funds (together, the Funds) that are managed by the JMB Institutional Realty Corporation (JMB) or any of its affiliates, in which employee benefit plans participate, to engage in certain transactions provided specified conditions are met.

EFFECTIVE DATE: This exemption is effective June 20, 1980.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz 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) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 7, 1982, notice was published in the Federal Register (47 FR 19820) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) 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 transactions described in an application filed on behalf of the trustees of the JMB Group Trust. 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 applicants informed the Department that they were unable to notify interested persons of their right to comment and request a hearing within the time period set forth in the proposed exemption. Pursuant to discusions with the Department, the applicants notified interested persons that the period for written comments and requests for a public hearing would be extended until June 30, 1982. The applicants have represented that interested persons were notified, in the manner set forth in the notice of pendency, on or before May 24, 1982. No requests for a hearing were received by the Department.

The only comments received by the Department were submitted by the applicants. The applicants requested that the proposed exemption be expanded to include relief for transactions involving the purchase and sale by plans participating in the Funds (Participating Plans) of units of beneficial interest in the Funds. The applicants indicate that there is some question as to whether those transactions are prohibited, especially since the Department included relief for such transactions in the exemption proposed for Pension Equity Growth Trust (47 FR 14811, April 6, 1982). The Department has decided to include relief for such transactions in this exemption as well, and has modified the proposed exemption by adding Section I(c).

The applicants also stated that they have recently become aware of a prohibited transaction engaged in by the JMB Group Trust that took place before the effective date of the proposed exemption, which would otherwise have been encompassed by the exemption. The applicants have requested that the entire exemption be made retroactive to June 20, 1980, which is the date on which the first Participating Plan purchased an interest in one of the Funds, in order to cover any other inadvertent transactions with parties-in-interest which may have occurred. Because such relief is necessary for the transactions exempted by the added Section I(c), the Department has agreed to make the entire exemption effective June 20, 1980.

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 to 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 subjected 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 if administratively feasible;

(b) It is in the interests of the Participating Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Participating Plans.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Section I. Exemption for Certain Transactions Involving the Fund

(a) Effective June 20, 1980, the restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transactions Between Parties In Interest and the Fund: General*

Any transaction between a party-in-interest with respect to a Participating Plan and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if the party-in-interest is not JMB or one of its affiliates and if, at the time of the transaction, acquisition or holding, the interest of the plan, together with the interests of any other plans maintained by the same employer or employee organization in the Fund, does not exceed 5 percent of the total of all assets in the Fund. (2) *Special Transactions Not Meeting the Criteria of Section I(a)(1) Between Employers of Employees Covered by a Multiple Employer Plan and the Fund.*

Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiple employer plan that is a Participating Plan and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if at the time of the transaction, acquisition or holding—

(A) The interest of the multiple employer plan in the Fund does not exceed 10 percent of the total assets in the Fund, and the employer is not a "substantial employer" with respect to the plan (within the meaning of section 4001(a)(2) of the Act), or

(B) The interest of the multiple employer plan in the Fund exceeds 10 percent of the total assets in the Fund, but the employer is not a "substantial employer" with respect to the plan and would not be a "substantial employer" within the meaning of section 4001(a)(2) of the Act if "5 percent" were substituted for "10 percent" in that definition.

(3) *Acquisitions, Sales or Holdings of Employer Securities and Employer Real Property.* (A) Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer securities or employer real property by the Fund which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this Section I, if no commission is paid to JMB or to the employer, or any affiliate of JMB or the employer in connection with the acquisition or sale of employer securities or the acquisition, sale or lease of employer real property; and

(i) In the case of employer real property—

(aa) Each parcel of employer real property and the improvements thereon held by the Fund are suitable (or adaptable without excessive cost) for use by different tenants, and

(bb) The property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) In the case of employer securities—

(aa) Neither JMB nor any of its affiliates is an affiliate of the issuer of the security, and

(bb) If the security is an obligation of the issuer, either:

1. The Fund owns the obligation at the time the plan acquires an interest in the Fund, and interests in the Fund are offered and redeemed in accordance with valuation procedures of the Fund applied on a uniform or consistent basis, or

2. Immediately after acquisition of the obligation: (a) not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such plan, and (b) in the case of an obligation that is a restricted security within the meaning of Rule 144 under the Securities Act of 1933, at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer. JMB, its affiliates and any collective investment fund maintained by JMB or its affiliates shall be considered to be persons independent of the issuer if JMB is not an affiliate of the issuer.

(B) In the case of a Participating Plan that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real property with respect to which JMB or its affiliate has investment discretion does not exceed 10 percent of the fair market value of all the assets of the Participating Plan with respect to which JMB or its affiliate has such investment discretion.

(C) For purposes of the exemption contained in subsection (A) of this section (3), the term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to, a person who is a party-in-interest with respect to a Participating Plan by reason of a relationship to the employer described in section 3(14) (E), (G), (H), or (I) of the Act.

(b) Effective June 20, 1980, the restrictions of section 406(a)(1), (A), (B), (C), and (D) and section 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the transactions described below, if the conditions of Section III are met.

(1) *Transactions with Persons Who Are Parties in Interest With Respect to a Participating Plan Solely by Virtue of Being Certain Service Providers or Certain Affiliates of Service Providers.* Any transaction between the Fund and a person who is a party-in-interest with respect to a Participating Plan if—

(A) The person is a party-in-interest (including a fiduciary) solely by reason of providing services to the Participating Plan, or soley by reason of a relationship to a service provider described in section 3(14) (F), (G), (H) or (I) of the Act, or both, and the person neither exercised nor has any discretionary authority, control, responsibility or influence with respect to the investment of the Participating Plan's assets in, or held by, the Fund, and

(B) The person is not an affiliate of JMB.

(2) *Certain Leases and Goods.* The furnishing of goods to the Fund by a party-in-interest with respect to a Participating Plan or the leasing of real property owned by the Fund to such party-in-interest and the incidental furnishing of goods to such party-in-interest by the Fund, if—

(A) In the case of goods, they are furnished to or by the Fund in connection with real property owned by the Fund;

(B) The party-in-interest is not JMB, any affiliate of JMB, or one of the other Funds; and

(C) The amount involved in the furnishing of goods or leasing of real

property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Fund with the same party-in-interest, or any affiliate thereof) does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the Fund prior to the transaction.

(3) *Management of Real Property.* Any services provided to the Fund by JMB or by an affiliate of JMB in connection with the management of the real property owned by the Fund, if the compensation paid to JMB or its affiliate does not exceed the cost of the services to JMB or its affiliate.

(4) *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Fund to a party-in-interest with respect to a Participating Plan, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

(c) Effective June 20, 1980, the restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the purchase and sale of units of beneficial interest in the Fund if no more than reasonable compensation is paid therefor, each purchase and sale is authorized in writing by a fiduciary of the Participating Plan who is independent of JMB and any of its affiliates, and the applicable conditions of section III are met.

Section II—Excess Holdings Exemption for Employee Benefit Plans

(a) Effective June 20, 1980 the restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through the Fund) by a Participating Plan if (1) the acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer securities or employer real property held by the Fund; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and (3) the applicable conditions set forth in Section III of this exemption are met.

Section III—General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of JMB or its affiliate, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) JMB or its affiliate maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section III to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances behond the control of JMB or its affiliate, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a Participating Plan who has authority to acquire or dispose of the interests in the Fund of the Participating Plan or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any Participating Plan or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any Participating Plan, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine trade secrets of JMB or its affiliate, or commercial or financial information which is privileged or confidential.

Section IV—Definitions and General Rules

For the purposes of this exemption,

(a) The term "the Fund" shall include the JMB Group Trust, the JMB Group Trust II and any collective investment fund that may hereafter be established, operated and managed by JMB or its affiliate in essentially the same manner as the current Funds.

(b) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any officer, director, employee, relative of, or partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(e) The term "multiple employer plan" means an employee benefit plan that satisfies at least the requirements of section 3(37)(A)(i), (ii) and (v) of the Act and section 414(f)(1)(A), (B) and (E) of the Code.

(f) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquisition is made, on or after the effective date of this exemption, or a renewal that requires the consent of the Fund occurs on or after the effective date of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to a holding exempt by virtue of Section I(a)(1) at such time as the interest of the Participating Plan exceeds the percentage interest limitation of Section I(a)(1), unless no portion of such excess results from an increase in the assets allocated to the Fund by the Participating Plan. For this purpose,

assets allocated do not include the reinvestment of Fund earnings. Nothing in this paragraph (e) shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(g) Each Participating Plan shall be considered to own the same proportionate undivided interest in each asset of the Fund as its proportionate interest in the total assets of the Fund as calculated on the most recent preceding valuation date of the Fund.

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 transactions which are the subject of this exemption.

Signed at Washington, D.C., this 30th day of July 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. 82-21341 Filed 8-5-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3299]

Proposed Exemption for Certain Transactions Involving Lear Siegler, Inc. Pension Plan Located in Santa Monica, California

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) The proposed contribution to the Lear Siegler, Inc. Pension Plan (the Plan) by Lear Siegler, Inc. (LSI), the Plan sponsor and by its wholly-owned subsidiary, Lear Siegler Properties, Inc. (collectively, LSI), of LSI's interest in certain master leases (Master Leases) and subleases (Subleases) of real property; (2) the guarantee by LSI, under certain conditions, of the rental due under the Subleases; and (3) certain Subleases wherein the sublessee is a party in interest with respect to the Plan. The proposed exemption, if granted, would affect LSI, the Plan and its participants and beneficiaries and other persons participating in the proposed transactions.

DATE: Written comments and requests for public hearing must be received by the Department on or before September 20, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3299. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b) (1) and (2) of the Act and from 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. The proposed exemption was requested in an application filed by LSI, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit plan with 4,756 participants and assets of $98,059,556 as of June 30, 1981. LSI is a diversified company involved in a large number of business lines, including real estate development in Hawaii, with net sales in fiscal year 1981 totaling over $1,530,000,000. The trustee of the Plan is Bankers Trust Company (Bankers), which is independent of LSI or any of its affiliates.

2. LSI is the owner of the Master Leases, which are certain master lease interests in realty, generally located in the Pearl Ridge and Waiau Ridge areas in Honolulu, Hawaii, which expire at various times through the year 2006. The Master Leases are ground leases between LSI, as lessee, and the Trustees of the estate of Bernice Pauahi Bishop (the Trustees of the Bishop Estate), as lessor. Under the terms of the Master Leases, LSI and the Trustees of the Bishop Estate have agreed to join in the Subleases as lessors. The Subleases typically have a term at least double that of the Master Lease. The LSI interest in the Subleases expires at the end of the term of the Master Lease and thereafter the Trustees of the Bishop Estate are the sole lessors. There are approximately 5,000 Subleases on improved residential units and industrial sites which have been entered into pursuant to the Master Leases. In the event of a default by a subleasee, the lessors have the right to cancel the Sublease and take possession of the property, including improvements, with all the rights of an owner.

3. The rental payments to be received from each residential sublessee and all other terms and conditions are fixed in the Sublease for the entire duration of the applicable Master Lease. With respect to certain industrial Subleases, the rentals are fixed except for a potential limitation which could limit rentals in the future. Nonetheless, the applicant represents that such limitations are unlikely to take effect. As a result, the cash flow from all of the Subleases can be projected with accuracy.

4. LSI presently performs the following services with respect to the Subleases: (a) Handles collection of the rentals under the Subleases; (b) monitors and enforces compliance with Sublease provisions, such as maintenance and insurance requirements; (c) reports on and pays the relevant Hawaii Gross Income Tax out of cash flow; and (d) distributes the established rental share to the Trustees of the Bishop Estate and retains its own share.

5. LSI seeks to contribute its interest as lessee under the Master Leases and its interest as lessor under the Subleases to the Plan in partial fulfillment of LSI's required contribution to the Plan. The applicant emphasizes that the terms and conditions of each Master Lease and

Sublease have been negotiated at arm's-length and will remain in effect for the duration of the Plan's interest therein. The Master Leases require that the Trustees of the Bishop Estate consent in writing to any assignment of the lessee's interest in the Master Leases. However, such consent cannot be unreasonably withheld and will be obtained prior to any transfer to the Plan. Moreover, since the contribution will represent only a portion of LSI's required contribution, it will not exceed the maximum contribution LSI is entitled to under the Code.

6. In an appraisal performed by Hastings, Martin, Chew & Associates, Ltd. (Hastings), an independent real estate appraisal firm, Hastings selected discount rates of 15.5 to 16 percent for the fixed income stream provided by the Subleases after analyzing comparable financial instruments such as corporate bonds and leased fee sales and after considering the quality, security, durability and collectibility of the income stream. The value of such proposed contribution as of March 31, 1982 was estimated to be $4,844,000. In addition, the Plan will be protected by a review of this transaction by Bankers, which will accept responsibility for determining whether the proposed transaction, under the terms and conditions set forth in LSI's application and at the price established by Hastings, will be in the best interests of the Plan.

7. In addition, LSI will guarantee that, at the end of each fiscal year, it will contribute to the Plan an amount equal to the difference, if any, between the actual rental payments received by the Plan and the projected rental payments used by the appraisers in valuing the lease interests to be transferred. Moreover, with regard to those industrial Subleases which have a potential limitation on rentals in future years, LSI will further guarantee that at the end of each fiscal year it will contribute to the Plan an amount equal to the difference, if any, between the rental which would have been received absent the limitation and the rental payment actually received. Also, LSI will agree to continue to provide administrative services without compensation, in connection with: (a) the collection and distribution of rentals; (b) the reporting of the Hawaiian Gross Income Tax and payment of any such tax due out of cash flow from the Subleases; and (c) the monitoring of the terms of all of the Subleases. The applicant emphasizes that LSI's services will be purely administrative and not discretionary.

8. Neither LSI nor any of its affiliates is currently nor will it become at any future time, a sublessee under any of the Subleases. However, a small number of properties subject to a Sublease have been and will be purchased by employees of LSI subsidiaries and such Subleases would constitute prohibited transactions under section 406(a)(1)(A) of the Act after their contribution to the Plan. An exemption is requested for such Subleases.

9. In summary, the applicant represents that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act for the following reasons:

(a) An independent fiduciary will determine that the contribution, at the value established by the independent appraiser, will be in the best interests of the Plan;

(b) The fair market value of the Master Lease and Sublease interests to be transferred has been determined by an independent appraiser;

(c) The Master Lease and Sublease interests to be transferred are secure assets with a guaranteed income stream;

(d) LSI will guarantee the cash flow upon which the appraisers have based their valuation. Moreover, for those industrial Subleases which might potentially be subject to a rental limitation in future years, LSI will guarantee that should any such limitation take effect, LSI will pay the Plan an amount equal to the difference between the rental actually received and the rental that would have been received had that limitation not taken effect;

(e) LSI will provide certain administrative services to the Plan without compensation;

(f) Contribution of the Master Lease and Sublease interests will represent only a portion of LSI's required contribution to the Plan and will therefore not exceed the maximum contribution LSI is entitled to under the Code;

(g) The Subleases involving parties in interest will not involve LSI or any of its affiliates; and

(h) The terms and conditions of the Master Leases and Subleases, including the rental, have been negotiated at arm's length and will remain in effect for the duration of the Plan's interest in each Master Lease and Sublease.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons within ten (10) business days after the date of publication of this notice of pendency of proposed exemption. The notice will contain a copy of this notice of proposed exemption and will inform each recipient of his or her right to comment on or request a hearing with regard to the proposed exemption. Notice will be given to all Plan participants and beneficiaries currently employed by LSI and its affiliates by posting it in locations where employer notices are customarily posted. The notice will be mailed to all Plan participants and beneficiaries not currently employed by LSI or any of its affiliates.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, is granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted: (1) The restrictions of section 406(a), 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (a) The proposed contribution by LSI of its interest in the Master Leases and the Subleases; (b) the guarantee under certain conditions, of the rental due under the Subleases; and (2) the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to any Sublease in which the sublessee is a party in interest other than LSI or any of its affiliates, provided that the terms and conditions of the proposed transactions are at least as favorable to the Plan as those it could obtain from an unrelated party.

The proposed exemption, if granted, will be 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 transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 30th day of July 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. 82-21329 Filed 8-5-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3517]

Proposed Exemption for Certain Transactions Involving the McDonald, Hopkins & Hardy Co., L.P.A. Defined Benefit Pension Plan and Trust Located in Cleveland, Ohio

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendencey before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan of $100,000 (the Loan) by the McDonald, Hopkins & Hardy Co., L.P.A. Defined Benefit Pension Plan and Trust (the Plan) to McDonald, Hopkins & Hardy Co., L.P.A. (the Employer). The proposed exemption, if granted, would affect the Employer, the participants and beneficiaries of the Plan and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before September 20, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3517. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendencey before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from 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. The proposed exemption was requested in an application filed by counsel for the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit pension plan with 27 participants and net assets of approximately $441,832 as of December 31, 1981. The trustees (the Trustees) of the Plan are H. Guy Hardy, T. D. McDonald and Thomas W. Keen, all of whom are officers and directors of the Employer. Investment decisions for the Plan are made by two independent investment advisors. The investment firm of H. I. Glass manages approximately 75% of the Plan's assets. First Fiduciary Investment Counsel manages the remaining 25% of Plan assets. The Employer is an Ohio-licensed professional corporation incorporated in 1970 to conduct the practice of law.

2. An exemption is requested to permit the Plan to loan $100,000 to the Employer, the proceeds of which will be used to purchase a word processing system. The proposed Loan represents approximately 23% of the Plan's assets as of December 31, 1981. The Loan will be repaid over a five year period in sixty monthly installments. The interest rate on the Loan will be adjusted quarterly and will be the average prime rate for each quarter during the term of the Loan as established by Euclid National Bank of Cleveland, Ohio pursuant to its standard practices or 17% per annum, whichever is greater. Full or partial prepayment will be permitted at any time, subject to a prepayment penalty of 2% of the amount prepaid.

3. The Loan will be secured by a purchase money security interest in the equipment being purchased and a pledge of the Employer's accounts receivable which are less than 90 days old (the Collateral). The value of the Collateral securing the Loan will at all times be at least 200% of the outstanding Loan blance. The Plan will have a first security interst in the Collateral and such interest will be perfected by the filing of financing statements with the

Secretary of State of Ohio and the County Recorder, Cuyahoga County, Ohio. The accounts receivable pledged as collateral will be valued at 100% of their face amount if less than 30 days old, at 75% of their face amount if greater than 30 days old, and at 50% of their face amount if greater than 60 days old. The equipment pledged as collateral will be insured against loss, damage and destruction and the Plan will be named as the beneficiary of the proceeds of such insurance policy.

4. Vernon Essi and his firm, First Fiduciary Investment Counsel (Essi), have been retained to act as the independent fiduciary for the Plan with respect to the proposed Loan. Essi is independent of the Employer and is presently charged with responsibility for the management of over $16.6 million of retirement plan assets. Essi states that he has reviewed the proposed transaction and the needs of the Plan for liquidity and diversification, and has determined that the proposed Loan is in the best interests of the Plan's participants and beneficiaries. Essi will monitor the repayment of the Loan and will value the Collateral quarterly to ensure that the Collateral is, at all times, in an amount of at least 200% of the outstanding Loan balance. Essi will have the authority to require the Employer to accelerate payments or pledge additional collateral if the value of the Collateral at any time falls below 200% and will determine the quarterly interest rate adjustments and inform the Employer of any additional principal payments required as a result of the adjustment. In addition, Essi will have the right and obligation to take whatever steps are necessary to protect the rights and interests of the Plan with regard to the Loan.

5. The Trustees of the Plan represent that the proposed Loan is a favorable investment opportunity for the Plan in that it will permit the Plan to earn a high rate of return on a secure investment and will increase the diversification of the Plan's portfolio without impairing the Plan's liquidity.

6. In summary, the applicants represent that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because: (1) the Loan will involve only approximately 23% of the Plan's assets; (2) the Loan will provide the Plan with a high rate of return which will no be less than 17% per annum; (3) the Loan will be secured by a first security interest in Collateral which will at all times have a value of at least 200% of the outstanding Loan balance; (4) the Loan has been approved and will be monitored by an independent fiduciary who will take whatever actions are necessary to enforce the Plan's rights with respect to the Loan; and (5) the Trustees and the independent fiduciary have determined that the proposed Loan is appropriate for the Plan and in the best interests of its participants and beneficiaries.

Notice to Interested Persons

Within 14 days after the publication of this proposed exemption in the **Federal Register**, notice will be provided to all present employees of the Employer and to all former employees and beneficiaries who have any undistributed account balances in the plan. Such notice will include a copy of the notice of pendency and also will inform each person to whom notice is given of his right to comment on the application and to request that a hearing be held with respect to the proposed exemption. Notice to present employees will be given by hand delivering a copy of such notice to each employee. Notice will be given to each former employee or beneficiary by mailing such notice to his last known address.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transaction prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive or whether the tranaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 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 Loan of $100,000 by the Plan to the Employer, under the terms and conditions set forth above, provided that the terms and conditions of the Loan are no less favorable to the Plan than those it could obtain in an arm's-length transaction with an unrelated party.

The proposed exemption, if granted, will be 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 the exemption.

Signed at Washington, D.C., this 30th day of July 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. 82-21338 Filed 8-5-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3162]

Proposed Exemption for Certain Transactions Involving Middletown Surgeons, Inc., Revised Pension Plan Located in Middletown, Ohio

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed purchase by Middletown Surgeons, Inc. Revised Pension Plan (the Plan) from John W. Barnes, M.D. (the Owner), a party in interest with respect to the Plan, of 83,000 shares of common stock of Assembly Machines, Inc. (AMi), an unrelated company, in exchange for cash and a note receivable (the Note) executed by the Owner and currently held by the Plan. The proposed exemption, if granted, would affect the Owner and the Plan.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before September 10, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3162. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department of Labor, telephone (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (B) of the Code. The proposed exemption was requested in an application filed on behalf of the Owner, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a money purchase pension plan covering two participants, both of whom are fully vested in the amounts credited to their accounts. The Plan is funded by a trust consisting of a General Pension Fund and a Distribution Fund. Investments in both of these funds are directed by a committee appointed by the board of directors of Middletown Surgeons, Inc. (the Employer), which sponsors the Plan. Participants' accounts are maintained in the General Pension Fund unless the participant elects to have his account transferred to the Distribution Fund, which is intended to be invested in certain income-producing assets. Section 3.4 of the Plan provides, in part, that any present participant who has met the Plan's requirements for early retirement may elect to have his account irrevocably transferred from the General Pension Fund to the Distribution Fund. All subsequent Employer contributions for such participant are credited directly to his or her Distribution Fund account. Earnings, expenses, gains, and losses pertaining to the assets held in such participants's Distribution Fund account are credited or debited directly to such account. Similarly, section 3.4A of the Plan permits any participant to elect to transfer irrevocably all or part of the vested portion of his or her General Pension Fund account to a Directed Investment Account, to be invested as directed by the participant.

2. The Owner is the trustee of the Plan, the sole owner of the Employer, an employee of the Employer, and a participant in the Plan whose account has been transferred to the Distribution Fund. On December 31, 1981, the fair market value of the Plan's total assets was $244,317.43, of which $227,877.74 was credited to the Owner's account. Among the Plan's assets is the Note in the amount of $120,000 (outstanding balance), which is currently allocated entirely to the Owner's Distribution Fund account. The applicant states that the Note represents a loan exempt under section 408(b)(1) of the Act.[1]

3. The Owner owns 83,000 shares of AMi common stock (approximately 9% of the total AMi common stock issued and outstanding). The Owner has no other relationship, either personal or business, with AMi or its corporate management. Thus, the applicant represents that the Owner is not in a position to control or direct AMi's management. AMi, incorporated October 19, 1973, is engaged in the business of producing a line of automatic and semi-automatic assembly machines used in industry. AMi common stock is currently closely held by approximately 14 individuals. AMi's management expects that AMi common stock will be sold on the open market within the next five to ten years, given expected growth and the attendant need for additional capital. As of September 30, 1981, AMi was authorized to issue 1,250,000 shares of common stock, par value $.01 per share, of which 882,120 shares were issued and outstanding and an additional 154,286 shares (the Subscribed Shares) were subscribed to by existing shareholders. No preferred stock is shown on AMi's financial statements. The Subscribed Shares were purchased at a price of $1.75 per share. Attached to each Subscribed Share is a warrant permitting the shareholder to purchase an additional share at the same price ($1.75) within 18 months of the issue date of the Subscribed Share. The applicant represents that the Owner was unable to influence the determination of that price.

Since September 30, 1981, the date by which the subscriptions were received, no shares of AMi stock have been sold at any price. By letter dated July 18, 1982, Mr. Charles K. Walters, President of AMi, states that AMi believes the current fair market value of its stock is $1.50 per share.

[1] The Department is expressing no opinion herein as to the application of section 408(b)(1) of the Act to the Note.

4. The Owner proposes to sell to the Plan his 83,000 shares of AMi common stock at a price of $1.50 per share in exchange for the Note and cash in the amount of the difference ($4,500) between the total purchase price ($124,500) and the outstanding balance due on the Note ($120,000). Such amount of cash ($45,500) will be charged to the Owner's Distribution Fund account, to which is currently allocated cash and equivalents exceeding $35,000, as well as the entire outstanding balance due on the Note. All of such AMi shares will then be allocated to the Owner's Distribution Fund account. The Plan will not be required to pay a brokerage fee or commission of any kind on the purchase of the AMi shares.

5. In summary, the applicant represents that the proposed transaction satisfies the exemption criteria set forth in section 408(a) of the Act because (a) the Note and cash to be used to pay the proposed purchase price are currently allocated entirely to the Owner's Distribution Fund account, and all of the AMi shares to be purchased by the Plan will be allocated to the Owner's Distribution Fund account, so that the Owner will be the only Plan participant or beneficiary affected by the proposed transaction; (b) the Plan will pay no fees or commissions relating to the proposed purchase; (c) the proposed purchase price equals the current fair market value of the shares, as determined by AMi; and (d) the Owner, as Plan trustee and the only Plan participant or beneficiary to be affected by the proposed transaction, approves of the transaction and desires that it be consummated.

Notice to Interested Persons

Since the Owner is the only participant or beneficiary of the Plan who will be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (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 Plan's purchase of the Owner's 83,000 shares of AMi common stock in exchange for cash and the Note, provided that the total purchase price does not exceed the fair market value of such shares at the time of the purchase.

The proposed exemption, if granted, will be 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 the exemption.

Signed at Washington, D.C., this 30th day of July, 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. 82-21334 Filed 8-5-82; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-3408 and D-3409]

Proposed Exemption for Certain Transactions Involving the Allan D. Stilwell, M.D. Profit Sharing Plan and Trust, and the Allan D. Stilwell, M.D. Money Purchase Plan and Trust Located In Troy, Mich.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of investment grade diamonds by the Allan D. Stilwell, M.D. Profit Sharing and Money Purchase Plans and Trusts (the Plans) to Dr. Allan D. Stilwell (Dr. Stilwell), a disqualified person with respect to the Plans. Because Dr. Stilwell is the sole shareholder of Allan D. Stilwell, M.D., P.C., the sponsor of the Plan, and the only participant in the Plans, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code. The proposed exemption, if granted, would affect the Plans, Dr. Stilwell and any other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before September 8, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. D-3408 and D-3409. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plans, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. Dr. Stilwell is the only participant in the Plans, the trustee of the Plans and the person responsible for making investment decisions for the Plans. As of March 31, 1982, the Plans had total assets of approximately $350,000.

2. On January 7, 1982 and January 9, 1982, the Plans purchased from the International Diamond Corporation, located in San Rafael, California, six investment grade diamonds (the Diamonds) for a total purchase price of $15,600. The Diamonds range in weight from .09 carats to .69 carats. Since the date of purchase the Diamonds have declined in value. Dr. Stilwell believes that the value of the Diamonds will continue to decrease in the future.

3. Mr. James Mack of Sidney Krandall and Sons, located in Troy, Michigan, determined, that as of May 10, 1982, the Diamonds had a total market value of $6,460. Dr. Stilwell proposes to purchase the Diamonds from the Plans for cash at fair market value. The Plans will not incur any sales commmissions with respect to the sale. The Diamonds will be held by Dr. Stilwell for investment purposes. Dr. Stilwell represents that the sale of the Diamonds will allow the Plans to reinvest the proceeds in interest-bearing investments.

4. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 4975(c)(2) of the Code because (a) the sale of the Diamonds at a loss will only affect Dr. Stilwell, and he requests that the transaction be consummated; (b) the Diamonds will be sold for cash at their appraised market values; and (c) the Plans will not incur any expenses in regard to the sale.

Notice to Interested Persons

Because Dr. Stilwell is the only participant in the Plans it has been determined that there is no need to distribute the notice pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, 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 cash sale of the Diamonds by the Plans to Dr. Stilwell, provided that the sales price for each Diamond is not less than its fair market value as of the date of sale.

The proposed exemption, if granted, will be 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 the exemption.

Signed at Washington, D.C., this 30th day of July, 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. 82-21336 Filed 8-5-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3094]

Proposed Exemption for Certain Transactions Involving Texas Home Improvement, Inc. Profit Sharing Plan and Trust Located in San Antonio, Texas

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) The proposed sale to the Texas Home Improvement, Inc. Profit Sharing Plan and Trust (the Plan) by Texas Home Improvements, Inc. (the Employer), the Plan sponsor, of third party mortgages (the Notes); and (2) the Employer's guarantee and possible repurchase of the Notes. The proposed exemption, if granted, would affect the Employer, the Plan and its participants and beneficiaries.

DATE: Written comments and requests for a public hearing must be received by the Department on or before September 27, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D-3094. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b) (1) and (2) of the Act and from 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. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined contribution plan with 9 participants as of December 31, 1981 and net assets of approximately $698,000 as of December 31, 1980. The Plan trustee is Bernard Lifshultz, president of the Employer. The Employer is located in San Antonio, Texas and is engaged in the business of remodeling homes. The Employer, in the ordinary course of its business, accepts the Notes from its customers. The Notes are secured by first lien mortgages on real property. The Employer proposes to sell Notes to the Plan for a five-year period.

2. Mr. Clyde B. Goldsmith, who is independent of the Employer, will make all determinations and decisions regarding purchases of Notes by the Plan and will monitor, on the Plan's behalf, the terms and conditions of the Notes and the exemption proposed herein. Mr. Goldsmith has been engaged for more than 32 years in the business of residential and commercial construction in the San Antonio area. He represents that he has extensive experience in the purchase and sale of mortgage notes similar to the Notes.

3. The Plan will purchase the Notes for cash at their fair market value as determined by Mr. Goldsmith. Mr. Goldsmith will select for the Plan only those Notes considered to be of high quality. Notes are considered high quality when the property offered as security is especially attractive from the standpoint of value and continued marketability or when the Note has a lower than usual loan to value ratio. Mr. Goldsmith will verify: (a) The age and condition of the real estate offered as security; (b) the value of the security, as determined in an appraisal to be performed by Mr. Goldsmith; and (c) the ratio of the cost of the Note to the value of the security, which will not exceed 80%. In addition, only seasoned Notes, that is, those with a satisfactory payment record of more than 24 months will be purchased by the Plan.

4. The Employer will service the Notes at no cost to the Plan. The mortgagor will maintain casualty insurance on the property securing the Note at all times during the term of the Note. The Employer will assign to the Plan, in writing, its interest in the insurance proceeds. The Plan will not at any time have more than 50% of the current value of its assets invested in the Notes. No more than 5% of Plan assets will be invested in any one Note and the Plan will not purchase more than one Note involving the same mortgagor. In addition, the Employer shall guarantee in writing that it will repurchase any Note sold to the Plan that is in default in excess of 90 days at a price representing the higher of the Plan's cost or the current market value. The applicant emphasizes that all of the transactions discussed herein will be conducted on an arm's-length basis.

5. In summary, it is represented that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act due to the following:

a. An independent fiduciary will have the sole authority to make all decisions regarding the Notes on the Plan's behalf;

b. The independent fiduciary will choose only seasoned, high quality Notes;

c. All transactions will be conducted on an arm's-length basis;

d. The Employer will guarantee in writing that it will repurchase any Note sold to the Plan that is in default in excess of 90 days at the higher of the Plan's cost or current market value;

e. The property securing the Notes will be kept insured by the mortgagor and the Employer will assign, in writing, its interest in the insurance proceeds;

f. No more than five percent of Plan assets will be invested in any one Note and the Plan will not purchase more than one Note involving the same mortgagor; and

g. The exemption will be temporary, expiring five years after it has been granted.

Notice to Interested Persons

Notice of the proposed exemption will be given to all Plan participants and beneficiaries within 20 days of its publication in the **Federal Register** by posting in the Employer's office. The notice will include a copy of the proposed exemption and will state that each participant and beneficiary has the right to comment on request a hearing regarding the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the

general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transaction prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The purchase of the Notes by the Plan from the Employer, provided that the terms and conditions of the purchases will be at least as favorable to the Plan as those the Plan could obtain from an unrelated third party; and (2) the guarantee by the Employer to repurchase Notes that are in default and the repurchase by the Employer of such Notes from the Plan.

The proposed exemption, if granted, will be 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 transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 30th day of July 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. 82–21333 Filed 8–5–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–3505]

Transactions Involving R. C. Willey & Son, Inc., Profit Sharing Plan Located Syracuse, Utah

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt for a period of eight years certain proposed loans of money by the R. C. Willey & Son Inc., Profit Sharing Plan (the Plan) to R. C. Willey & Son Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Employer, the Plan and its participants and beneficiaries and other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before September 16, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526. U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3505. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from 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. The proposed exemption was requested in an application filed by the Plan trustees (the Trustees) and the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Preamble

On January 15, 1982, in the **Federal Register** (47 FR 2436), the Department published the grant of an exemption, the application for which was filed by the Employer and the Trustees, involving a transaction similar to the transaction herein described. However, after the publication date of the grant of the exemption certain inaccuracies of fact were discovered by the applicants in the original exemption application necessitating the refiling by the applicants and the reconsideration by the Department of the exemption request. This notice of proposed exemption constitutes the only relief from the restrictions of 406 of the Act and from the sanctions resulting from the application of section 4975 of the Code being proposed by the Department for certain loans of money by the Plan to the Employer.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with approximately 162 participants and total net assets, as of July 31, 1981, of $4,210,960. The Trustees of the Plan who are responsible for investment decisions for the Plan are Sheldon F. Child, William H. Child and Robert L. Cheney, all of whom are employees of the Employer. Mr. William Child is also president and majority shareholder of the Employer. The Employer is a retailer of home furnishings, including furniture, carpets and appliances.

2. The Employer and the Trustees of the Plan are requesting an exemption to allow the Plan to enter into a loan agreement (the Loan Agreement) with the Employer, whereby the Plan will periodically loan certain amounts of money to the Employer. The aggregate of the outstanding balances of all loans made under the Loan Agreement at any point in time during the duration of the Loan Agreement will not be greater than the lesser of $2,000,000 or 25 percent of the assets of the Plan. All loans made under the Loan Agreement would be made over an eight year period, the first day of which would be the date the grant of an exemption for the Loan Agreement appears in the Federal Register. All of the proposed loans will mature and become due and payable on or before the last day of such eight year period. Any loan made during the first five years of the Loan Agreement would be payable over a period of three years. Any loan made after the end of the fifth year would be payable over the remaining term of the Loan Agreement. Payments of principal and interest on the loans will be made in equal quarterly installments. The interest rate for any loan granted under the Loan Agreement will be a floating rate adjusted monthly equal to 1 percent above the rate charged by the First Security Bank of Utah (the Bank) for prime commercial loans of 90 day maturity but in no event less than 12 percent.

3. All loans made under the Loan Agreement will be secured by a perfected first security interest with respect to the first $6,000,000 of the Employer's accounts receivable (the Receivables) as shown on an alphabetical list of such Receivables and a second security interest in the remaining amount of the Employer's Receivables. As of December 31, 1981, the Employer had total Receivables of $14,849,901. Zions First National Bank (Zions) has extended to the Employer a line of credit (the Line of Credit) in the amount of $4,250,000. As of May 31, 1982, the amount owing Zions by the Employer totalled $3,050,000. The Line of Credit currently is secured by a first security interest by Zions in the Receivables. Zions, however, has stated that it would subordinate its first security interest in the first $6,000,000 of Receivables to allow the Plan to obtain a first security interest. The Employer provides its own financing for its sales on a revolving charge account basis. The term for such financing is slightly over 29 months, but the average pay off for all Receivables is between 10 to 11 months. As of December 31, 1980, the Employer had over 22,000 separate customer accounts with an average balance of $500. The Employer represents that it has experienced less than a 2.4 percent loss of the Receivables in the first four months of 1982 and as a conservative practice maintains a reserve for bad debts equal to approximately 3 percent of the total balance of the Receivables.

4. Mr. William H. Child has agreed to personally guarantee the Employer's loan obligations under the Loan Agreement to the Plan in the event a default by the Employer remains uncured for a period of 45 days. As of February 1, 1982, Mr. Child's net worth was $5,244,184.

5. The Bank has been appointed special loan trustee and represents that the Loan Agreement is in the best interest of the Plan. Also, the Bank will approve and monitor any loans made under the Loan Agreement. The Bank is independent of the Employer and the Plan. The Bank will also be required to obtain all security agreements and other documents in connection with the Loan Agreement, to collect principal and interest payments on any loan, to enforce collection on any loan and the Plan's rights under the security agreement and to accelerate any loan in the event of default. In addition the Bank will monitor the value of the Receivables so that at all times the Receivables with respect to which the Plan holds a first security interest will be maintained in the amount of at least 300 percent of the outstanding balance of all loans made under the Loan Agreement. No loan under the Loan Agreement will be made unless the Bank represents that the Employer is able to borrow the same amount from a commercial bank on terms that are more favorable or at least as favorable to the Employer as the terms of the loan under the Loan Agreement.

6. In summary, the applicants represent that the Loan Agreement satisfies the statutory criteria of section 408(a) of the Act because: (1) The Bank, an independent party, will represent that the proposed Loan Agreement is in the best interest of the Plan; (2) the Bank will approve and monitor each loan made under the Loan Agreement; (3) each loan made under the Loan Agreement will have a high rate of interest with a floor of 12 percent per annum and will at all times be secured by the Receivables; (4) The Receivables with respect to whch to the Plan holds a first security interest will be at all times maintained in the amount of at least 300 percent of the balance of all loans made under the Loan Agreement; (5) the aggregate of the outstanding balances of all loans made under the Loan Agreement will not be greater than the lesser of $2,000,000 or 25 percent of the assets of the Plan; (6) Mr. William H. Child will personally guarantee the obligations of the Employer under the Loan Agreement in the event of a default by the Employer; and (7) no loan will be made unless the Bank represents that the Employer is able to borrow the same amount from a commercial bank on terms that are more favorable or at least as favorable to the Employer as the terms of the loan under the Loan Agreement.

Notice to Interested Persons

Notice will be given to all participants and beneficiaries of the Plan within ten days of the publication of the notice of pendency in the Federal Register. Such notice will include a copy of the notice of pendency as it appears in the Federal Register and a statement informing interested persons of their right to comment or request a hearing before the Department within the time period indicated in the notice of pendency. Notice will be provided by mail, personal delivery or by posting in the Employer's places of business in locations where notices are customarily posted.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and

the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearings Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, 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 proposed loans of money under the Loan Agreement by the Plan to the Employer for a period of eight years from the date the grant of an exemption is published in the **Federal Register** provided that: (1) The aggregate of the outstanding balances of all such loans at any point in time shall not exceed the lesser of $2,000,000 or 25 percent of the assets of the Plan; and (2) the terms and conditions of such loans are not less favorable to the Plan than those obtainable from an unrelated party at the time the transactions are entered into.

The proposed exemption, if granted, will be 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 transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of July 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. 82–21337 Filed 8–5–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–3080]

Proposed Exemption for Certain Transactions Involving Wisconsin State Carpenters Pension Fund Located in Eau Claire, Wisconsin

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the loan of $225,000 (the Loan) by the Wisconsin State Carpenters Pension Fund (the Fund) to William and Janice McKee (McKee), parties in interest with respect to the Fund; and the personal guarantee of repayment by McKee. The proposed exemption, if granted, would affect McKee, and the participants and beneficiaries of the Fund.

DATE: Written comments must be received by the Department of Labor on or before September 24, 1982.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–3080. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department of Labor, telephone (202) 523–8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed by the trustees (Trustees) of the Fund, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Fund is a collectively bargained multiemployer plan established to provide pension benefits in accordance with Section 302(c)(5) of the Labor Management Relations Act of 1947, as amended. As of December 31, 1980, the estimated number of Fund participants was approximately 14,067 and Fund assets were valued at $37,212,759.38 as of August 31, 1981.

2. The Board of Trustees for the Fund (Board) is presently comprised of 22

members (11 Employer-appointed and 11 Union-appointed Trustees) with Employer and Union Trustees entitled to cast an equal number of aggregate votes. Because of the size of the full Board, standing Board committees have been established to conduct the Fund's ongoing administration and management functions. Only one of the standing Board committees, the Investment Committee (Committee), makes decisions with respect to the management of Fund assets. Such Committee has exclusive responsibility for investment of Fund assets in real estate mortgage financing.

3. The Committee is comprised of four Employer-appointed and four Union-appointed Trustees. One of the Committee's functions, for which it has exclusive responsibility, is to consider and act on all applications for the investment of Fund assets in commercial real estate mortgage financing which replaces the borrower's short-term construction financing. Financing applications are approved or rejected by a majority vote of the Committee (tie votes constituting rejection). No financing application may be considered by the Committee unless it first meets the written Criteria for Acceptance of Mortgages. Decisions of the Committee become final without Board review or approval, although the Committee reports all of its decisions to the Board and the Board has authority to appoint and replace Committee members.

4. The Plan has contracted with Knutson Mortgage & financial Corporation (Knutson), an independent mortgage banker, to present and recommend to it for consideration appropriate, competitive commercial real estate mortgage opportunities and to service such mortgages as are selected by the Committee. One of Knutson's duties with respect to a given mortgage application is to recommend to the Committee what an appropriate interest rate would be, given all of the other negotiated terms and conditions of the mortgage and the existing prevailing interest rates for comparable projects. Knutson will service the Loan on behalf of the Fund for a specified servicing fee of ⅜ of 1% of the declining principal balance of the Loan, pursuant to a master servicing agreement between the Fund and Knutson.[1]

5. The transaction for which an exemption is sought involves the Loan which is to be made by the Fund to McKee. One hundred percent of the stock of McKee Associates, Inc. ("Associates") is owned by McKee. Associates is a contributing employer to the Fund. No shareholder, director, officer or employee of Associates is now or has ever been a Trustee of the Fund, a member of the Committee or of any other Fund committee, or associated with the Fund in any other capacity.

6. The Loan would be in the amount of $225,000 which constitutes less than 0.6% of the Fund's total assets. The Loan would be secured by a first mortgage on certain real property located at 1410 Greenway Cross in Madison, Wisconsin. The sole purpose for the Loan would be to reimburse McKee, to the extent of the Loan, for construction, equipment, furnishings, professional fees, taxes, and other out-of-pocket expenses actually incurred or paid by McKee with respect to such real estate. The total disbursements made by the Fund would not exceed the lesser of (i) of the sum of actual expenditures, or (ii) 75% of the independently determined appraised value of the improved real estate.

7. McKee has submitted an application for the Loan and said application has been approved by the Committee, subject to receipt by the Fund of the proposed exemption. Such application was found by the Committee to meet the Criterai for Acceptance of Mortgages and is represented to constitute the type of "blue chip" mortgage financing suitable for Fund investment.

8. The Loan would be for a term of 30 years with level payments of principal and interest (based upon a 30-year amortization) to be paid monthly throughout the term of the Loan. The rate of interest throughout the term of the Loan would be fixed at 14⅝% per annum, net to the Fund, which was determined by the Committee to be the market rate at the time the loan application was negotiated. The interest rate is however subject to review by the Fund every five years upon six months notice given to McKee. The interest rate will be adjusted up or down to reflect current market conditions. The Committee determines the interest rate for a given mortgage based upon the rate recommended by Knutson, the prevailing experience and knowledge of the Committee members and prevailing market conditions. The interest rate, as determined above, would be the same whether the mortgagor is a party in interest (such as McKee) or an unrelated party.

9. The indebtedness created by the Loan would be evidenced by a promissory note executed by McKee. Payment of the note would be personally guaranteed by McKee, whose net worth is in excess of $570,000. In addition to a first mortgage on the improved real estate and McKee's personal guarantee, payment of the note would be further secured by a general assignment to the Fund of the leases between McKee and the person or persons occupying the improvements constructed on the real estate. The first mortgage would be insured by mortgage title insurance guaranteeing that the mortgage is a valid first lien against the improved real estate. The Loan would be made on the same terms, pursuant to the same conditions, and would be treated in all respects in the same manner as loans made to persons who are unrelated to the Fund.

10. Associates will perform at least a portion of the construction of the contemplated improvements. The construction financing for the project will be provided by a construction mortgage loan from a bank which has no relationship to the Fund. At the closing of the Loan, it is anticipated that the Fund will complete the Loan by purchasing (and thereby paying off) the prior construction loan from the bank providing the construction funds.

11. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(a) The Committee has determined that the proposed transaction is in the best interests of the Fund and its participants and beneficiaries;

(b) The Loan contains the same terms and conditions as similar loans that the Fund has made to unrelated parties; and

(c) Only a small portion of Fund assets would be involved in the Loan.

Notice to Interested Persons

Within twenty days following publication in the **Federal Register**, notice of the proposed exemption will be sent by bulk mailing to all contributing employers to the Fund, and to each collective bargaining unit, members of which are participants in the Fund, for conspicuous posting. Such notice shall include a copy of the notice of pendency as proposed in the **Federal Register** and shall inform interested persons of their right to comment within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified

[1] The Department is not proposing an exemption in this notice beyond that which is provided by section 408(b)(2) of the Act.

person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the Loan by the Fund to McKee provided that the terms and conditions of the transaction are at least as favorable to the Fund as those it could obtain from an unrelated party; and the personal guarantee of repayment by McKee.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of July 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. 82–21339 Filed 8–5–82; 8:45 am]

BILLING CODE 4510–29–M

[Application Nos. D–3291, D–3292, and D–3293]

Bell System Trust Located in New York, N.Y.; Proposed Exemption for Certain Transactions

AGENCY: Department of Labor.

AGENCY: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt certain real estate arrangements between the Bell System Pension Plan Trust and the Bell System Management Pension Plan Trust (collectively, the Plans) and several parties in interest. The transactions include the following and other related transactions: (1) The disbursement by the Plans of $74.5 million to 200 Madison Plaza Partnership (the Developer) to discharge a portion of a pre-existing loan obligation (the Construction Loan) of the Developer in return for an equity interest in certain real property; (2) the disbursement by the Plans of a $30 million first mortgage loan (the Mortgage Loan) to the Developer, the proceeds of which will be used for the partial discharge of the Construction Loan; and (3) the leasing of space in the Madison Plaza Development (the Property) by tenants who may be parties in interest. The proposed exemption, if granted, would affect the Plans; the Bell System Trust (the Trust); the participants and beneficiaries of the Plans and Trust; Eastdil Advisers, Inc. (Eastdil); the Developer and its principals; the First National Bank of Chicago (First Chicago) and certain entities holding participation interests in the Construction Loan; Harris Trust and Savings Bank (Harris); Arthur Rubloff and Company (Rubloff); the Madison Plaza Corporation; the Madison Plaza Venture (the Joint Venture); prospective tenants of the Property; and other persons participating in the transactions.

DATES: Written comments must be received by the Department of Labor on or before September 24, 1982.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application Nos. D–3291, D–3292, and D–3293. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed on behalf of the Developer, Eastdil, First Chicago and Madison Plaza Corporation, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

As set forth above, this notice of proposed exemption pertains to several real estate transactions by Plans maintained by the American Telephone and Telegraph Company (AT&T). Specifically, the proposed transactions relate to an office building under construction in downtown Chicago, Illinois. The building, known as Madison Plaza, was conceived by and is being developed by the Developer, a partnership between Messrs. Lee A. Miglin (Miglin) and J. Paul Beitler (Beitler). The decision to have the Plans engage in the proposed transactions involving the Property has been made by Eastdil, acting in its capacity as investment manager for certain assets of the Plans.

Captioned in the paragraphs below are the following subject areas pertaining to the proposed transactions for which an administrative exemption is sought: (1) The Parties Involved; (2) The Property; (3) The Chronology and Proposed Transactions; (4) Eastdil's Opinions and Duties with Respect to the Proposed Transactions; and (5) The Summary.

1. *The Parties Involved.*

a. *The Plans and the Trust.* The Trust is a group trust which is used for the investment on an undivided basis of the assets of the Plans. The Plans provide pension and death benefits to eligible employees and their beneficiaries. As of December 31, 1980, approximately 1,266,000 employees of AT&T and its subsidiaries were participating in the Plans. Those participating include active employees, retired employees, deceased employees whose beneficiaries are receiving benefits and separated employees entitled to future benefits.

The fair market value of assets of the Bell System Management Pension Plan Trust was approximately $18.5 billion as of December 31, 1981, and the fair market value of the assets of the Bell System Pension Plan Trust was approximately $17.3 billion as of the same date. As of June 30, 1981, Eastdil was managing $145,653,449 of the Plans' assets with an additional amount of $36,926,000 committed but still unfunded (i.e., real estate transactions closed but not yet funded) and an authorization for an additional $284,143,000 with respect to future outstanding commitments.

b. *Eastdil.* Eastdil is a New York City-based registered investment advisor registered under the Investment Advisors Act of 1940, as amended, and a wholly owned subsidiary of Eastdil Realty, Inc. (Eastdil Realty). Eastdil Realty was founded in 1967 and has extensive experience in the financing and management of multi-tenant income producing real estate. Eastdil was incorporated in 1978 for the sole purpose of investing and managing real estate assets for large pension plans. Eastdil currently managers more than $500 million in corporate pension assets on a separate account basis, consisting of multi-tenant commercial and industrial properties.

c. *First Chicago.* First Chicago is a national bank located in Chicago, Illinois. First Chicago is an investment manager with respect to a portion of the assets of the Plans that are not involved in the proposed transactions. In addition, First Chicago is the originator of the Construction Loan given to the Developer.

d. *Citicorp Real Estate, Inc. (Citicorp)* Citicorp is a New York-based real estate company and a wholly owned subsidiary of Citibank, N.A. Citibank, N.A. is a national bank located in New York City which serves as a trustee of a portion of those assets of the Plans which are not involved in the proposed transactions. Citicorp has acquired a 19.1 percent participation interest in the Construction Loan in the principal amount of $20 million.

e. *Northern Trust Company (Northern).* Northern, an Illinois bank located in Chicago, Illinois, has acquired a 14.4 percent participation interest in the Construction Loan in the principal amount of $15 million. Northern also serves as a fiduciary with respect to a portion of the assets of the Plans which are not involved in the subject transactions.

f. *Seattle-First National Bank (Seattle-First).* Seattle-First, a national bank located in Seattle, Washington, has acquired a 14.4 percent participation interest in the Construction Loan in the principal amount of $15 million. Seattle-First also serves as a fiduciary with respect to a portion of the assets of the Plans which are not involved in the proposed transactions.

G. Harris. Harris, a bank organized under the laws of the State of Illinois, serves as the trustee of the land trust which holds legal title to the Property for the benefit of the Developer. Harris has acquired a 9.5 percent participation interest in the Construction Loan in the principal amount of $10 million. As the trustee of the land trust, Harris has executed leases and other documents regarding the Property and would be required to convey title or otherwise deal with the proposed Joint Venture between the Developer and the Plans. Harris is also currrently serving as a fiduciary with respect to a portion of the assets of the Plans which are not involved in the subject transactions.

h. *The Developer.* The Developer is the beneficiary under the land trust which currently holds title to the Property.

i. *The Joint Venture.* The Joint Venture will be owned in equal parts by the Plans and the Developer. The Developer's ownership interest in the Property will be transferred to the Joint Venture.

j. *Madison Plaza Corporation.* Madison Plaza Corporation is or will be a corporation wholly owned by Miglin and Beitler. It is anticipated that it or another entity controlled by Miglin and Beitler will serve as property manager with respect to the Property and will also be responsible for selecting and supervising the leasing agent or will provide such leasing services itself.

k. *Rubloff.* Rubloff is a Chicago-based real estate company with offices throughout the country. Rubloff has been selected as the leasing agent for the Property. The principals of the Developer are executives of Rubloff.

2. *The Property.* The Property, commonly known as Madison Plaza, consists of land located at 200 West Madison, Chicago, Illinois, together with improvement under construction on this site. The Property is located in the central business district of Chicago, immediately adjacent to a rapid transit station forming a part of Chicago's Loop. The Property, upon completion in November 1982, will consist of a forty-five story office building containing a gross building area of approximately 1,035,798 square feet and a net rentable area of approximately 921,919 square feet. The building will also contain an in-door parking facility.

3. *The Chronology and Proposed Transactions.*

a. *The First Chicago Construction Loan.* Beginning in February 1981, First Chicago extended a series of loans to the Developer which permitted the commencement of the construction phase of the Property. By late October 1981, the principal amount of the loans totaled approximately $35.5 million. On December 9, 1981, First Chicago and the Developer executed an agreement for the Construction Loan (the Construction Loan Agreement) in the principal amount of $104.5 million. Under the terms of the Construction Loan Agreement, the earlier loans were

repaid from the Construction Loan proceeds.

The Construction Loan bears interest at a rate which is ¾ of one percent over the prevailing corporate base rate charged by First Chicago. The interest rate is also subject to adjustment. First Chicago has retained a 42.6 percent interest in the Construction Loan totaling a principal amount of $44.5 million, and has sold the remainder as participation interests as discussed above.

The Construction Loan Agreement provides for the execution of a tri-party agreement (the Tri-Party Agreement) by First Chicago, the Developer and, on behalf of the Plans, by Eastdil. Pursuant to the Tri-Party Agreement and the Construction Loan Agreement, the Construction Loan will mature on March 1, 1983, which is the anticipated date for disbursement of funds by the Plans. This date may be extended for up to five months for certain delays beyond the control of the parties. If the disbursement of the Plans' funds is extended for such delays, the maturity date of the Construction Loan would likewise be extended so that the term of the Construction Loan would end with the disbursement of the Plans' funds.

The Tri-Party Agreement also provides that the Plans may cure any defaults of the Developer with respect to payments arising under the Construction Loan or the Plans may purchase the Construction Loan. If the Plans cure a default under the Construction Loan, the Joint Venture will continue and the Plans will have such rights as they negotiate at the time they elect to cure the default. If the Plans purchase the Construction Loan, they will own the Property entirely and can complete the project with their own funds or arrange for other financing. The Plans may complete the project individually or in conjunction with the Developer or a third party. The Plans will not cure a default under the Construction Loan or purchase the Construction Loan unless Eastdil, as fiduciary to the Plans, has determined the actions are appropriate for the Plans and in the best interests of their participants and beneficiaries.

b. *The Plans' Investment in the Joint Venture.* Through its agents, the Developer approached institutional real estate investors to solicit proposals for permanent financing of the Property. One of these investors was Eastdil who, in September 1980, indicated an interest in the Property on behalf of pension funds maintained by the Pacific Telephone and Telegraph Company, a subsidiary of AT&T (The PT&T Plans).[1] On December 8, 1980, Eastdil formalized its investment proposal in a letter to the Developer's agent. Eastdil's proposal provided for the acquisition of a 50 percent equity interest in the Property.

By letter dated May 26, 1981, Eastdil advised the Developer of its acceptance on behalf of the PT&T Plans of the Developer's application for financing subject to certain specified conditions. By letter dated May 29, 1981, the Developer acknowledged and returned a signed copy of the May 26 letter and also delivered a good faith deposit of a letter of credit issued by First Chicago in the amount of $200,000. The letter of credit could have been drawn upon by Eastdil, on behalf of the Plans, if the Developer did not accept the Plans' formal commitment. It was, however, returned to the Developer and subsequently replaced by a letter of credit in the amount of $517,500 (see below).

By letter agreements dated July 31, and November 3, 1981, Eastdil and the Developer modified the prior letter agreements and finalized the terms of the investment by the Plans. (The letters of May 26, May 29, July 31 and November 3, 1981 are hereinafter collectively referred to as the Commitment Agreement.) The Developer executed a promissory note in the amount of $1,552,000 (and payable to Bank of America (BOA) as trustee of the Plans) as a good faith deposit in consideration for Eastdil's execution and delivery of the Commitment Agreement. Also pursuant to the Commitment Agreement, First Chicago on July 13, 1981, issued a letter of credit to the Developer in favor of Eastdil in the amount of $517,500. This letter of credit expired on December 31, 1981 and was replaced by one payable to Manufacturers Hanover Trust Company (MHT), as trustee of the Plans. If the proposed transactions are not funded due to the Developer's failure to comply with the terms of the Commitment Agreement, MHT has the right to make demand for payment under the promissory note which has been transferred from BOA to MHT, and to draw upon the letter of credit.

[1] Prior to June 1981, Eastdil was acting pursuant to investment management agreements authorizing Eastdil to act as investment manager for the PT&T Plans. In June 1981, Eastdil entered into investment management agreements, effective as of October 1, 1980, with AT&T. Pursuant to these agreements, Eastdil was retained to act as investment manager with respect to certain assets constituting part of the Plans. The Plans then encompassed the assets of the former PT&T Plans. Thus, following the execution of these latter agreements, Eastdil continued its negotiations on behalf of the Plans.

The Commitment Agreement provides for an investment by the Plans of up to $74.5 million in return for a 50 percent equity interest in the Joint Venture, together with a $30 million first Mortgage Loan by the Plans to be evidenced by a promissory note of the Developer. The Developer will also have a 50 percent equity interest in the Joint Venture.

The Plans' investment will be subject to the conditions set forth in the Commitment Agreement. On behalf of the Plans, Eastdil will approve all proposed plans and specifications for the project, all leases and the project budget. Eastdil will also receive an appraisal of the Property on a completed value basis, a survey of the project, satisfactory certificates from the architect and engineer regarding the completion of the building and the availability of the building for occupancy, satisfactory evidence of insurance (including title insurance) and statements from accountants and attorneys with respect to certain other aspects of the project.

In addition, performance by the Plans is conditioned upon the performance by the Developer of its covenants (including the delivery of lists of persons who are associated with the Property, who are, or may become, parties in interest with respect to the Plans) and evidence of compliance with applicable laws, including the prohibited transaction provisions under the Act. Performance by the Plans will not be required if certain specified events of default occur.

c. *The Mortgage Loan.* The Mortgage Loan is a mortgage to the Developer and an accompanying note will be executed by the Developer and Plans which will constitute a recourse obligation of the Developer. The Developer will convey the Property to the Joint Venture subject to the Mortgage Loan. Following such conveyance, the payment obligations under the Mortgage Loan will become obligations of the Joint Venture, payable out of the gross revenues of the Joint Venture. If gross revenues are deficient, the Mortgage Loan will be payable out of the operating deficit reserve account of the Joint Venture.

The Mortgage Loan will bear 11 percent simple interest for the first five years. Thereafter, the Mortgage Loan will bear 12 percent simple interest per annum. After the tenth anniversary of the Mortgage Loan, the Plans have the right to cause the interest rate to be adjusted to the rate then charged on similar loans. However, any such adjustment in the interest rate will reduce (or increase in the case of a

reduction in the interest rate) in the same dollar amount, the preferred rate of return payable to the Plans with respect to its equity investment. The terms of the Mortgage Loan further provide for debt service at the rate of $281,087 per month for the first five years and $303,440 per month thereafter with a maturity date 35 years after the disbursement of the Mortgage Loan, unless the Joint Venture should terminate or dissolve prior to such 35th anniversary, in which case the maturity date would be accelerated. The debt service will accrue during the first 12 months of the Mortgage Loan, and will be paid at the end of that first 12 month period.[2]

In an appraisal report submitted to Eastdil on September 15, 1981, by Messrs. Jules H. Marling and Thomas E. Holcer, M.A.I. appraisers affiliated with the Marling Group, Ltd. of Northfield, Illinois, it was determined that the Property had a fair market value of $151 million. The appraised amount was made subject to satisfactory completion of the office building in accordance with architectural specifications, stabilized occupancy of the building in accordance with prescribed lease provisions, a highly professional development and management effort, and other contingencies. The report was also based upon local and national market conditions prevailing as of the appraisal date.

d. *The Developer's Investment in the Joint Venture.* Pursuant to the Commitment Agreement, the agreement establishing the Joint Venture will provide that the Developer shall contribute the Property to the Joint Venture. At Eastdil's option, this may be accomplished by the Developer transferring its beneficial interest under the land trust (maintained by Harris), which holds title to the Property, free and clear of all liens, claims, charges and encumbrances other than the Mortgage Loan and the assignment of rents securing repayment of the $30 million Mortgage Loan from the Plans and other encumbrances permitted by Eastdil. The Developer is also obligated to contribute to the Joint Venture the Gross cash receipts of the project prior to the formation of the Joint Venture. In addition, the Developer is obligated to deposit additional amounts with the Joint Venture to cover its portion of cost overruns, if any, and other items.

e. *Provision of Leasing Agent Services.* At present, Rubloff provides leasing agent services with respect to the Property. It is anticipated that Rubloff will continue to provide the services after the formation of the Joint Venture. In addition, Rubloff may or may not at some time in the future occupy space in the building in conjunction with its provision of leasing agent services. Any leasing activities Rubloff performs will be conducted under terms and conditions that are no less favorable to the Plans than the terms and conditions customarily used with respect to the provision of leasing agent services to similarly situated buildings in the Chicago, Illinois area.[3]

f. *Property Manager and Other Service Providers and Tenants.* As stated above, it is anticipated that Madison Plaza Corporation or another entity affiliated with the principals of the Developer will be selected as manager for the Property. Further, it is anticipated that the property manager will be expected to occupy space in the building in conjunction with its activities. In addition, other business entities providing services to the Property, such as building maintenance services or other similar services, may occupy space as tenants. Any such services provided will be rendered under terms and conditions no less favorable to the Plans than the terms and conditions customarily used with respect to the provision of property management or such other services to similarly situated buildings in the Chicago, Illinois area.[4]

g. *Leases to Related Parties.* It is anticipated the leasing agent will be presented with opportunities to lease space in the Property to prospective tenants who may be fiduciaries or other parties in interest with respect to the Plans. The applicants represent that, because of the size of the Plans, the existence of opportunities to lease to attractive tenants who are parties in interest would appear to be inevitable. In addition, because of the size of the Plans and the large number of fiduciaries and parties in interest with respect to the Plans, it is likely that the leasing agent would be forced to forego numerous opportunities to lease space under normal and customary market terms and conditions if the normal prohibited transaction restrictions are applicable to leases of the Property. Any leasing of space in the Property will be conducted on terms at least as favorable to the Plans and the Joint Venture as the terms and conditions which are customary for similar leases in the Chicago, Illinois area.

4. *Eastdil's Opinions and Duties With Respect to the Proposed Transactions.* Eastdil believes the proposed transactions are prudent for the Plans and in the best interests of their participants and beneficiaries. Eastdil has conducted detailed analyses of the investment criteria of the Plans, the Property and the general conditions of the Chicago, Illinois leasing market. Based on these considerations, Eastdil has determined that the actual investment by the Plans in the Property will have a fair market value in excess of the initial total outlay of $104.5 million.

Among other considerations, Eastdil has considered the rates of return payable to the Plans with respect to the $74.5 million capital contribution to the Joint Venture and the Mortgage Loan. The $74.5 million equity portion of the Plans' investment will initially give the Plans a preferred return of 10 percent for the first twelve months the Joint Venture is in effect; a 10.5 percent preferred return for the second twelve month period; and an 11 percent preferred return each succeeding twelve month period. The Plans' preferred return for the first 60 months of the Joint Venture will be cumulative and, to the extent not paid when due, will be payable out of the net cash flow generated by the operations of the Property during subsequent annual periods, subject to certain limitations. The Plans' preferred return on its ownership interest is payable from the Joint Venture's net cash flow before any return is payable to the Developer on its ownership interest. When the net cash flow of the Joint Venture exceeds the Plans' preferred return, the Plans may be entitled to additional distributions thereby increasing the rate of return to the Plans.

With respect to the Plans' investment in the Joint Venture, Eastdil represents that during the initial negotiations with the Developer, it proposed on behalf of the Plans to obtain a 50 percent ownership interest in the Property and a preferred return for a total investment of $104.5 million. However, subsequent negotiations resulted in the division of

[2] The application explains that the entire debt service is a charge to the cash flow of the Joint Venture rather than the obligation of the Developer because in order to be characterized as a valid debt instrument for income tax purposes (see 4. below) rather than an equity participation in the ownership of the Property, the debt service payable under the Mortgage Loan must be deducted from the gross revenues of the Property and paid in accordance with the terms thereof, in the manner of an operating expense. As a result, the payment of debt service will reduce the Joint Venture's net cash flow available for distribution to the Plans and Developer. However, the Developer's distributable portion of the net cash flow will be subordinated to that of the Plans, including the Plans' preferred rate of return.

[3] The Department is not proposing an exemption for the provision of services beyond that which is provided in section 408(b)(2) of the Act.

[4] See footnote 3, above.

the Plans' investment between an equity portion and the Mortgage Loan. Eastdil represents that the Developer's desire to divide the Plans' investment into debt and equity portions was based on the Developer's business considerations, and this division was acceptable to Eastdil in light of the priority secured position offered by the Mortgage Loan and the interest payments required. Eastdil believes the $104.5 million investment and the return thereon must be regarded as a whole within the context of the Plans' acquisition of a 50 percent ownership interest in the Joint Venture and has determined that the separation of the Plans' investment into two investment vehicles is in no way a detriment to the Plans. In addition, Eastdil has determined that the combination of the interest payable on the Mortgage Loan and the Plans' preferred return is not less than the return generally available on investments similar in nature to the Property, and therefore is beneficial to the Plans, particularly since the Plans are acquiring a 50 percent ownership interest.

As long as it is serving as investment manager to the Plans, Eastdil will select and monitor the activities of any property manager, leasing agent or other service provider for the Property. Eastdil will also monitor activities with respect to the leasing of space in the Property and will be empowered to terminate any property management, leasing agent or other service agreements on reasonable notice whether or not the service provider is affiliated with any fiduciary or party in interest with respect to the Plans. In addition, Eastdil will monitor the obligations of tenants of the Property, including prospective tenants who may be fiduciaries or other parties in interest with respect to the Plans. In addition, Eastdil will not permit the leasing to, or the retention of, any service provider who is a fiduciary or other party in interest unless such retention or lease is negotiated at arm's length, and Eastdil determines that the retention or lease is on terms which are no less favorable to the Plans than those obtainable with unrelated parties.

Finally, Eastdil represents that to the best of its knowledge, neither Eastdil nor any of its officers, directors, stockholders, employees or agents is affiliated with or otherwise related to the other parties in interest involved in the transactions or any of their respective affiliates, officers, directors, stockholders, employees, or other agents, and none of such parties has in any manner influenced the exercise of Eastdil's judgment as a fiduciary of the Plans.

5. *The Summary.* In summary, the applicants state that the proposed transactions will satisfy the criteria for an exemption provided by section 408(a) of the Act because:

(a) The terms of the transactions have been carefully negotiated on an arm's length basis by Eastdil;

(b) Eastdil, which has extensive expertise with transactions of this type, believes the subject transactions are in the best interests of the Plans and their participants and beneficiaries;

(c) Eastdil will select, monitor and terminate the activities of service providers, and will monitor the rental obligations of the tenants who lease space on the Property; and

(d) Eastdil, the fiduciary who is responsible for the Plans' involvement in the transactions, is independent of the other parties to the transactions.

Notice to Interested Persons

Notice of the proposed exemption will be posted on all bulletin boards, normally used for providing notice to employees of all companies whose employees are covered by the Plans, within 10 business days of the date of publication of the notice of pendency in the **Federal Register**. Such notice will contain a copy of the notice of pendency as published in the **Federal Register** and a statement advising interested persons of their right to comment on the exemption. Notification will also be provided to unions, any of whose members are participants in the Plans, by first class mail within the time period described above.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions:

(1) The disbursement by Eastdil (or by another fiduciary with respect to the Plans pursuant to directions from

Eastdil) of assets of the Plans to either the Developer or to First Chicago, Citicorp, Harris, Northern and Seattle-First, for use in repaying the Construction Loan and the receipt by the entities of such disbursements;

(2) The extension of the Construction Loans by First Chicago, including disbursements under such loans in the form of letters of credit or other disbursements in favor of the Plans or Eastdil;

(3) The extension of construction financing by Citicorp, Harris, Northern and Seattle-First through the acquisition of participation interests in the Construction Loan, including any indirect transactions which may arise by virtue of such financing by any affiliate of such institutions;

(4) The execution of the Tri-Party Agreement and performance of that Agreement by the parties thereto including the right to cure any default or to purchase the Construction Loan;

(5) The creation of the Joint Venture including the disbursement of the Plans' assets to the Developer and the Joint Venture in exchange for an equity and mortgage interest; and

(6) The leasing of space in the property by parties in interest (including the Plan fiduciaries), provided that any such leases are at least as favorable to the Plans and the Joint Venture as the lease terms and conditions which are customary for similar leases with respect to similarly situated buildings in the Chicago, Illinois area, and provided further that any such leases are approved on behalf of the Plans by a trustee or investment manager which is not affiliated with or otherwise related to such tenants in any manner which would affect the exercise of its judgment as a fiduciary.

The proposed exemption, if granted, will be 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 transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of July 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. 82-21345 Filed 8-6-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3504]

Employees' Profit-Sharing and Retirement Plan of Burns Bros. Contractors, Inc., Burns Bros. Manufacturing Co., Inc., and John Weekes & Son Company Located in Syracuse, New York; Proposed Exemption for Certain Transactions

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt (1) the proposed loan of funds by the Employees' Profit-Sharing and Retirement Plan of Burns Bros. Contractors, Inc., Burns Bros. Manufacturing Co., Inc. and John Weekes & Son Company (the Plan) to 717 Spencer Street Associates (the Partnership); and (2) other transactions, as described herein, to be executed in accordance with the terms of the proposed loan. The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries, the Partnership, and any other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before September 17, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3504. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from 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. The proposed exemption was requested in an application filed on behalf of the Partnership, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit-sharing plan with approximately 62 participants. The Plan has been adopted by three corporations, Burns Bros. Contractors, Inc. (Contractors), Burns Bros. Manufacturing Co., Inc. (Manufacturing), and John Weekes & Son Company (Weekes), (collectively, the Corporations). The Merchants National Bank & Trust Company of Syracuse is the trustee of the plan (the Trustee) and maintains complete authority with regard to investment decisions for the Plan. As of December 31, 1981, the Plan had assets having a total market value of $1,808,043.

2. The Corporations constitute commonly-controlled businesses as defined in section 414 of the Code. Manufacturing and Weekes are engaged in the wholesale distribution of industrial supplies, pipes, valves and fittings. Contractors is a mechanical contracting firm which contracts for the installation of plumbing, sprinkler systems, heating, air conditioning and process piping. As of December 31, 1980, the Corporations had a total net worth of $3,076,417. Mr. David S. Burns (Mr. Burns) is a shareholder and officer of Manufacturing and Contractors. Weekes is a wholly-owned subsidiary of Manufacturing.

3. The applicant requests an exemption to allow the Plan to loan $200,000 (the Loan) to the Partnership. Mr. Burns has a 90% partnership interest in the Partnership. The Partnership's principal asset is a improved parcel of industrial real property located at 717 Spencer Street, Syracuse, New York (the

Property). The Property is currently leased to Contractors.

4. The Loan will constitute approximately 11% of the Plan's assets. The Loan terms will provide for the equal monthly payment of principal and interest over a 20 year term. The Loan will bear an initial interest rate of 16.5% for five years and will be readjusted every five years thereafter, throughout the remainder of the term, to current mortgage rates. In no event will the interest rate by adjusted to less than 9% per annum. The Plan will have a duly recorded first mortgage (the Mortgage) on the Property. Mr. Burns will by personally liable for the outstanding indebtedness pursuant to the Mortgage. The applicant represents that Mr. Burns has a net worth in excess of $1 million.

5. Mr. Edward Mazur. MAI, a vice president of the Trustee, determined that, as of September 10, 1981 the Property had a fair market value of $320,000. The Property will be kept fully insured against casualty loss throughout the term of the Loan and the Plan will be the named insured.

6. Additional security will be provided to the Plan through the execution of a security agreement by the Partnership granting the Plan a perfected first security interest in certain personal property located within the Property. Additionally, the Partnership will assign its rights as lessor of the Property to the Plan.

7. The Trustee will serve as the fiduciary of the Plan with regard to the proposed Loan. The Trustee is independent of Mr. Burns and the Corporations. The Trustee has established the terms of the proposed Loan including the initial interest rate of 16.5%. The Trustee has determined that the proposed Loan is an appropriate investment for the Plan and will be in the best interests of the Plan. The Trustee will monitor the Loan and maintain complete authority with regard to the enforcement of the terms of the Loan. The Trustee will ensure that the interest rate of the Loan is readjusted to prevailing market rates every 5 years and will ensure that, throughout the terms of the Loan, the collateral securing the Loan remains equal to at least 150% of its outstanding balance.

8. In summary, the applicant represents that the Loan will satisfy the statutory criteria of section 408(a) of the Act because (a) the Loan will reprersent approximately 11% of the Plan's assets; (b) the Loan will be secured by a recorded first mortgage on the Property and by other collateral which together will have a value throughout the term of the Loan of at least 150% of the outstanding balance of the Loan; (c) an independent party, the Trustee, has established the terms of the Loan and will maintain complete authority with respect to the enforcement of the Loan terms; and (d) the Trustee represents that the Loan is appropriate and in the best interests of the Plan.

Notice to Interested Persons

Within ten days after its publication in the **Federal Register**, notice of this proposes exemption will be provided by first class mail to all present Plan participants and all former participants and beneficiaries with a vested interest in the Plan. Such notice will include a copy of this Notice of Proposed Exemption as published in the **Federal Register** together with a statement informing interested persons of their right to comment on and/or request a hearing regarding the requested exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (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 (1) the Loan of $200,000 by the Plan to the Partnership; and (2) other transactions to be executed in accordance with the terms of the Loan, as described herein; provided that the Loan and the other transactions are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated third party at the time of the consummation of the transactions.

The proposed exemption, if granted, will be 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 the exemption.

Signed at Washington, D.C., this 30th day of July 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. 82-21342 Filed 8-5-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3214]

John H. Herrick Consulting Engineers, Inc., Defined Benefit Pension Plan and Trust Located in Portland, Oregon; Proposed Exemption for Certain Transactions

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed contribution (the Contribution) to the John H. Herrick Consulting Engineers, Inc. Defined Benefit Pension Plan and Trust (the Plan) of certain oil and gas limited partnership interests (the LP Interests) by John H. Herrick Consulting Engineers, Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Employer, the participants and beneficiaries of the Plan and other persons participating in the proposed transaction.

DATE: Written comments and requests for a public hearing must be received by the Department on or before September 13, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3214. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from 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. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit plan which as of August 11, 1981 had 14 participants and assets of $309,971. The trustee of the Plan is John H. Herrick (Herrick) who is the owner of the Employer. Approximately 98 percent of the total contribution to the Plan is made to fund the benefit of Herrick.

2. The Employer is requesting an exemption which will permit the Employer to contribute the LP Interests at a value of $44,923 to the Plan. The LP Interests consist of 17 oil and gas limited partnership interests which were issued by parties unrelated to the Employer or Herrick. The Employer represents that the LP Interests will be an excellent investment for the Plan. An independent party, P.E. Becker, Inc. (Becker) will examine the proposed transaction. Becker is a registered investment advisor located in Portland, Oregon. Becker manages funds in excess of $52,000,000 in accounts representing individuals, corporations and pension and profit sharing accounts. Prior to the Plan entering into the transaction, Becker must certify that the transaction will be in the best interests of the participants and beneficiaries of the Plan. In addition, Becker has valued each of the LP Interests and must certify that the contribution value is not more than the fair market value for the LP Interests. Also, prior to the Plan entering into the transaction, the trustee of the Plan must certify that the transaction is in the best interests of the participants and beneficiaries of the Plan and that the value of the Contribution is not more than the fair market value of the LP Interests. In taking a tax deduction for the Contribution, the Employer represents that the amount of such deduction will not exceed $44,923, the value of the LP Interests used in the Contribution.

3. In summary, the applicant represents that the Contribution meets the statutory criteria of section 408(a) of the Act because: (1) The trustee of the Plan will represent that it is in the best interests of the participants and beneficiaries of the Plan; (2) the value of the LP Interests has been determined by an independent party; (3) the transaction will be approved by an independent fiduciary; and (4) the applicant represents that the LP Interests are an excellent investment for the Plan.

Notice to Interested Persons

Within seven days of its publication in the **Federal Register** a copy of the notice of pendency and a statement advising interested persons of their right to comment or request a hearing will be hand delivered or mailed to all participants and beneficiaries of the Plan.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act

and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, 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 Contribution of the LP Interests to the Plan by the Employer at a value of $44,923 provided: (a) That this amount is no more than the fair market value of the LP Interests at the time of the Contribution; and (b) the Employer's federal tax deduction for the Contribution is not greater than the fair market value of the date of the Contribution.

The proposed exemption, if granted, will be 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 the exemption.

Signed at Washington, D.C., this 30th day of July 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. 82–21346 Filed 8–5–82; 8:45 am]

BILLING CODE 4510–29–M

[Exemption Application Nos. D–3338, D–3339]

Manufacturers Aids Company Profit Sharing Plan and the Manufacturers Aids Company Pension Plan; Located in Elk Grove Village, Illinois; Proposed Exemption for Certain Transactions

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of certain stock by the Manufacturers Aids Company Profit Sharing Plan (the Profit Sharing Plan) and the Manufacturers Aids Company Pension Plan (the Pension Plan) together (the Plans) to the Manufacturers Aids Company (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Employer, participants and beneficiaries of the Plan and other persons participating in the proposed transaction.

DATE: Written comments and requests for a public hearing must be received by the Department on or before September 16, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. Attention: Application Nos. D–3338 and D–3339. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from 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. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Profit Sharing Plan as of October 31, 1981 had 17 participants and assets of $269,134. The Pension Plan which was terminated and frozen as of October 31, 1981 had assets of $167,107 and 17 participants. Investment decisions for the Plans are made by the Plan trustees (the Trustees), Mary Jean Johansen (M. Johansen) and William Johansen (W. Johansen). M. Johansen is beneficiary to a large portion of the stock of the Employer and W. Johansen is an officer of the Employer. Each of the Plans owns 1,250 shares (the Stock) of the common stock of the Lombard Bank (the Bank). The Stock was purchased by the Plans in 1974 at $20 per share in a public offering. The Bank is unrelated to the Employer.

2. The applicant is requesting an exemption which will permit the Employer to purchase the Stock from the Plans at $12.00 per share. The applicant represents that $12.00 per share is greater than the fair market value of the Stock. The Bank, which is the transfer agent for the Stock, represents that the last sales of the common stock of the Bank were as follows: 12/10/81, 5,000 shares at $1.48 per share; 6/19/81, 3,500 shares at $2.71 per share; and 3/24/81, 500 shares at $2.71 per share. The

applicant represents that there is no active public trading market for the Stock and that it is impossible to get price quotations for the Stock from a stockbroker. In addition, the Bank represents that the book value of the common stock of the Bank as of December 31, 1981 was $3.60 per share. The Stock does not pay a dividend. The Employer represents that it is paying more than the fair market value of the Stock because the Stock is carried on the books of the Plan at $12.00 per share and such purchase will prevent having to mark down each participant's account to the fair market value of the Stock. The applicant represents that the Stock has no special value to the Employer.

3. In summary, the applicant represents that the proposed transaction will satisfy the criteria of section 408(a) of the Act as follows: (1) It will be a one time transaction for cash; (2) the Trustees represent that the transaction will be in the best interests of the participants and beneficiaries of the Plan; (3) the Plan will be able to eliminate a non-income producing asset; and (4) the Employer will pay to the Plan a price for the Stock that is in excess of the book value of the Stock and which is in excess of the market sale transactions involving the Stock.

Notice of Interested Persons

Within 10 days of its publication in the **Federal Register** a copy of the notice of pendency and a statement advising participants and beneficiaries of the Plans of their right to comment or request a hearing will be posted at the workplace of the Employer where the information can be seen by all the participants and beneficiaries of the Plans.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404, and 415.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1), and (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 by the Plans of the Stock which consists of 2,500 shares of the common stock of the Bank, to the Employer at $12 per share provided that this is at least the fair market value of the Stock at the time of sale.

The proposed exemption, if granted, will be 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 the exemption.

Signed at Washington, D.C., this 30th day of July, 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. 82-21347 Filed 8-5-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2981]

Marsh and McLennan Asset Management Company and Related Companies Located in Boston, Massachusetts and New York, New York; Proposed Exemption for Certain Transactions

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would permit certain subsidiaries of the Marsh and McLennan Asset Management Company (AMC) to recommend that employee benefit plans, with respect to which such subsidiaries are fiduciaries by reason of providing investment management services, invest in one or more commingled investment vehicles (the Trusts) which are designed for the collective investment by employee benefit plans in real estate and which have retained another affiliate of AMC to provide investment advice or investment management services regarding such real estate investments.

The proposed exemptions, if granted, would affect participants and beneficiaries of the employee benefit plans that participate in the Trusts, fiduciaries of those plans, and AMC and its affiliates.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before September 10, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-2981. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), and (b) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code. The proposed exemption was requested in an application filed on behalf of AMC, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. Two Trusts have been established. The Managed Property Trust, which is an open-ended trust, was organized as of October 31, 1980, as a group trust described in Rev. Rul. 56-267, 1956-1 C.B. 206 (subsequently superseded, without substantial change, by Rev. Rul. 81-100, 1981-13 I.R.B. 32), to provide for pension and profit-sharing plans, which are qualified under the Code, a vehicle for investment of a portion of their assets in income-producing real estate on a commingled basis. The Participating Properties Trust was organized as of October 1, 1981, and is similar in all material respects to the Managed Property Trust, except that it is a closed-ended trust. It is contemplated that one or more additional Trusts will be organized in the near future, and it is stipulated by the applicant that such additional Trusts will be similar to the Trusts that have been formed.

2. The trustees of the existing Trusts (the Trustees) are shareholders, officers and/or directors of the Trusts' investment manager. The Trustees serve without compensation from the Trusts now in existence. It is contemplated that the Trustees will serve in the same capacity for each of the additional Trusts, without compensation from the Trusts.

3. Marsh & McLennan Real Estate Advisors, Inc. (REA) is 51% owned by the applicant and 49% owned by its principal officers, who are the Trustees. REA is a registered investment adviser under the Investment Advisers Act of 1940 and was formed to provide advice and investment management services with respect to real estate investments by employee benefit plans, commingled investment vehicles such as the Trusts, and other investors. REA has been named the investment manager of the Managed Property Trust and the Participating Properties Trust. It is contemplated that similar agreements will be made with future Trusts.

4. The Putnam Advisory Company, Inc., Putnam Capital Management, Inc., and Eberstadt Asset Management, Inc. (collectively referred to herein as "Putnam/Eberstadt") are each wholly-owned subsidiaries of the applicant. Each of the Putnam/Eberstadt companies is a registered investment adviser under the Investment Advisers Act and acts as investment adviser or manager, generally with discretionary powers, for employee benefit plans and others, generally with respect to investments in debt and/or equity securities traded on securities exchanges or over the counter.

5. Putnam/Eberstadt has, from time to time, been approached for advice with respect to asset allocation, including real estate investments, by employee benefit plans which have retained Putnam/Eberstadt for investment adviceand investment discretion in traditional securities markets (the Client-Plans). Under the proposed exemption, Putnam/Eberstadt would be able to recommend investments in the Trusts to its Client-Plans, event though its affiliate, REA, acts as investment manager for the Trusts.

6. Under the proposed exemption, Putnam/Eberstadt's recommendation of the Trusts would be presented to an independent fiduciary of the Client-Plan and would be effective only if approved by that independent fiduciary. No fees would be charged for such recommendation, and the only fees received by Putnam/Eberstadt would be with respect to assets which it has under direct management (not including assets invested in the Trusts). REA would receive fees from the Trusts pursuant to its management agreement with the Trusts. To the extent that Client-Plans invested in the Trusts, their investment would bear their pro-rata portion of such fees. Each plan participating in the Trusts will pay an organizational and administrative fee to REA. This one-time charge is intended to cover the basic costs of the development of the program preparation of the Offering Memorandum and related documents, and creation and implementation of recordkeeping systems and procedures The amount and purpose of the fee is specifically set forth in the Offering Memorandum for each Trust, and therefore will be fully disclosed to all fiduciaries of participating plans before they decide to invest in the Trust. The Managed Property Trust's starting fee is $2,500, and the Participating Properties Trust's is $3,800. The applicant represents that such fees will not exceed $5,000 for future Trusts.

7. Putnam/Eberstadt's Client-Plans are relatively "large" plans, ranging from $2.2 million to over $25 billion in assets, and are staffed by experienced financial personnel. A Client-Plan customarily retains more than one investment manager, and the account managed by Putnam/Eberstadt is only a portion of the Client-Plan's total assets. The average account which is managed by Putnam/Eberstadt for a Client-Plan is approximately $79.1 million for The Putnam Advisory Company, Inc., approximately $8.4 million for Putnam Capital Management, Inc., and approximately $25 million for Eberstadt Asset Management, Inc.

8. Investment management services are performed pursuant to a written agreement between Putnam/Eberstadt and an independent plan fiduciary. Such services involve making investment decisions on a discretionary basis as to the buying, holding, and selling of plan

assets in the account for which Putnam/Eberstadt as investment manager is responsible; attending to the execution of such investment decisions by appropriate instructions to securities broker-dealers and the plan custodian; and periodically reporting to the independent fiduciary or his designated representative as to the market value and performance of the plan assets in the account under Putnam/Eberstadt's management.

Fees charged by Putnam/Eberstadt for investment management services are generally computed as a fraction of the market value of assets in the account under Putnam/Eberstadt's management and are set in a written agreement between Putnam/Eberstadt and the Client-Plan. The fees charged by Putnam/Eberstadt for such services are competitive with the fees charged by other investment managers.

9. As investment manager for the Trusts, REA will make all investment decisions for the Trusts, manage the day-to-day activities of the Trusts, including supervising on-site managers of the Trusts' real estate investments, and report to the Trustees and to the plans participating in the Trusts at least quarterly. REA will receive a fee on each quarterly valuation date as compensation for such services.

10. Putnam/Eberstadt believes that it may be appropriate for some of its Client-Plans which have assets of $10 million or more to invest a portion (but not greater than 10%) of their assets in one or more of the Trusts. Putnam/Eberstadt has made general asset allocation recommendations, and has provided some of its clients with the Offering Memorandum and other literature relating to the Managed Property Trust, but has specifically referred such Client-Plans to REA, which has expertise in real estate, for specific real estate advice.

It is anticipated that Putnam/Eberstadt would continue to refer Client-Plans that request general advice on real estate investments or evaluations of specific real estate investments to REA and that REA would treat such referrals as it would any other potential new client, i.e., by entering into appropriate agreements with the particular plan and by charging for the advice directly rendered to the plan. On appropriate occasions, however, Putnam/Eberstadt contemplates distributing directly to the Client-Plans the Offering Memorandum of one or more of the Trusts and recommending that the Client-Plan invest in one or more of the Trusts. Because such a recommendation may be seen as a transaction in which Putnam/Eberstadt, as a fiduciary rendering investment advice, recommends to a Client-Plan that it make an investment which will benefit its affiliate, REA, the applicant has requested the proposed exemption.

11. The applicant represents that Client-Plans expect Putnam/Eberstadt or its affiliates, as a "full service" investment complex, to be able to advise and, indeed, have management discretion, with respect to real estate investments. Staff personnel of Client-Plans are sophisticated and experienced in supervising the investment of large pools of money and in choosing between similar or dissimilar investment opportunities. Their receipt of a recommendation from Putnam/Eberstadt, even if initiated by the Client-Plan, does not necessarily mean that they will adopt the recommended course of action or even that they will be substantially influenced thereby.

12. The applicant represents that the following conditions will be imposed to assure that the contemplated. transactions be consistent with the Act and the standards set forth in Act section 408(a):

(1) No sales commission or other fee will be paid by the Client-Plan in connection with the purchase of any interest in a Trust (other than a one-time organizational and administrative fee not to exceed $5,000).

(2) The Client-Plan will not pay to a Trust any fee for the redemption of its interests in that Trust.

(3) The Client-Plan will not pay to Putnam/Eberstadt an investment management, investment advisory, or similar fee with respect to the plan assets invested in a Trust. (This condition shall not preclude payment by a Trust to REA of investment advisory fees.)

(4) The Client-Plan has assets valued at no less than $10 million at the beginning of the plan year during which the recommendation is made, and the recommended investment in a Trust does not exceed 10% of the Client-Plan's assets at the time of investment.

(5) A fiduciary with respect to the Client-Plan, who is independent of Putnam/Eberstadt and has no financial interest in these investments:

(a) Authorizes the investment of the Client-Plan's assets in the Trust;

(b) Receives an Offering Memorandum describing material information about the Trust, including a description of the services to be rendered by REA to the Trust and the compensation to be received by REA therefor;

(c) Acknowledges in writing that the quarterly fee to be charged by REA with respect to assets invested in the Trust will be greater than that which Putnam/Eberstadt would charge to manage securities of comparable value;

(d) Is notified of any proposed change in fees to be paid by the Trust to REA and approves it in writing before the change in fees becomes effective; and

(e) Receives timely periodic statements concerning the performance of the Trust, including an audited annual report by an independent public accounting firm, as well as such other information as the fiduciary may reasonably request concerning the operations and investments of the Trust.

(6) At the time of the recommendation, neither Putnam/Eberstadt, REA, nor any of their affiliates has any interest as an investor in the Trust directly, or unless permitted by a separate exemption, as sponsor of any plan investing in the Trust.

(7) Putnam/Eberstadt will provide a copy of this notice of proposed exemption to each Client-Plan prior to, or at the time of, making a recommendation to that Client-Plan that it invest in one or more of the Trusts.

13. In summary, the applicant represents that the requested exemption would satisfy the statutory criteria contained in section 408(a) of the Act because: (1) All terms and conditions with respect to the investment by Client-Plans in the Trusts are specific and require review and approval by an independent fiduciary; (2) the independent fiduciary will be provided with adequate disclosure concerning the investments and operation of the Trusts; and (3) before investing in a Trust such independent fiduciaries must determine that the investment in the Trust will be appropriate for the Client-Plans as part of a program of diversification of their portfolios.

Notice to Interested Persons

Because the applicant represents that Putnam/Eberstadt is not currently recommending to Client-Plans that they make investments in any of the Trusts, it has been determined that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and

the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406 (a) and (b) 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 (F) of the Code shall not apply to the investment of Client-Plan assets in one or more of the Trusts as described above, provided that the terms and conditions of such investments are at least as favorable to the Client-Plans as those obtainable in an arm's-length transaction with an unrelated party.

The proposed exemption, if granted, will be 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 transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of July 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. 82-21343 Filed 8-5-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3387]

Moriarity, Mikkelborg, Broz, Wells & Fryer Self-Employed Retirement Plan Located in Seattle, Washington; Proposed Exemption for Certain Transactions

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed temporary exemption would exempt the loan of funds by the Moriarity, Mikkelborg, Broz, Wells & Fryer Self-Employed Retirement Plan (the Plan) to Moriarity, Mikkelborg, Borz, Wells & Fryer (the Employer), the Plan Sponsor; and (2) the personal guarantees of the Employer's obligations under the loan by the nine partners of the Employer (the Partners). The Partners are owner-employees with respect to the Plan as defined in section 401(c)(3) of the Code, and the loan of funds to the Employer would constitute a loan to the Partners. Section 408(d)(1) of Title I of the Act provides that the Department lacks authority to grant an exemption under section 408(a) of the Act for the loan of funds by a plan to an owner-employee. Therefore the Department cannot grant an exemption under Title I for the transactions. However, there is jurisdiction under Title II of the Act, pursuant to section 4975 of the Code. The applicant recognizes that the exemptive relief proposed herein would not apply to prohibited transactions described in Title I of the Act. The proposed exemption, if granted, would affect the Employer, the Partners, and the Plan and its participants and beneficiaries.

DATE: Written comments and requests for a public hearing must be received by the Department on or before September 14, 1982.

TEMPORARY NATURE OF EXEMPTION: The exemption, if granted, will be temporary in nature and will expire 5 years after the date of grant with respect to origination of any loan. The exemption will expire 12 years after the date of grant with respect to the Plan's holding of any loan, provided such loan originated in the initial 5 year period.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3387. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined contribution prototype plan with 20 participants. The Plan is sponsored by First Interstate Bank of Washington, N.A., which serves as the trustee of the Plan (the Trustee). The Trustee is responsible for investment decisions with regard to the assets of the Plan which are held by the Trustee in a common trust fund. No member or employee of the Employer participates in the Trustee's investment decisions with respect to assets held in the common trust fund, although one employee has established a sub-account under the Plan and personally directs the investment of his account. As of March 31, 1982, the Plan had net assets of $340,038.

2. The Employer is a partnership engaged in the practice of law consisting of the Partners and approximately 27 other common-law employees. Eight of the Partners maintain an equal 11.75% ownership interest of the Employer and one Partner has a 6% ownership interest. Approximately $291,071 of the Plan's assets are attributable to the accounts of the Partners.

3. The applicant is requesting an exemption to borrow $70,000 from the Plan in order to purchase a minicomputer system (the System) for use in its business. This amount represents approximately 21% of the Plan's assets. The applicant proposes to borrow additional amounts from the Plan (collectively, the Loans) in order to purchase sypplemental equipment for the System, provided that the total amount of outstanding principal and interest due under the Loans does not exceed 30% of the then current market value of the Plan's net assets. The Loans may be made over a five year period commencing on the date of grant of the exemption. Each Loan will be repaid in equal monthly payments of principal and interest over a term not to exceed seven years, and will bear an interest at a rate not less than 1½% above the prime rate then quoted by the Trustee. The interest rate will be adjusted monthly. In no event during the term of a Loan will the interest rate be less than 11%.

3. The Loans will be secured by the execution of a perfected first security interest in the System and its accessories, and in all of the Employer's business equipment and furnishings (the Personal Property). Mr. Stanley Fleishman of American Office & Interiors located in Seattle, Washington, determined that, as of October 23, 1981, the Personal Property had a market value of $124,502. The System and Personal Property will be kept fully insured at the Employer's expense and a loss-payable clause will be executed in the Plan's behalf equal to the outstanding balances of the Loans.

4. Each Partner will execute a personal guarantee of the Employer's obligations under the Loans. The combined net worth of the Partners is approximately $2,750,000.

5. Mr. James S. Turner (Mr. Turner) has been appointed to serve as the fiduciary of the Plan with respect to the Loans. Mr. Turner is an attorney thoroughly familiar with self-employed benefit plans and loan transactions, and is independent of the Employer. Mr. Turner has reviewed the proposed transactions and has determined that the Loan will be appropriate and in the best interests of the Plan and its participants and beneficiaries. Mr. Turner will make the same determination at the time each Loan is consummated. Mr. Turner will monitor all aspects of the proposed Loan transactions and will be empowered to enforce collection in the event of a default. Mr. Turner will ensure that throughout the terms of the Loans the above described collateral securing the Loans will have a value not less than 200% of the Loans' outstanding principal amounts plus interest due.

6. In summary, the applicant represents that the Loans will satisfy the criteria of section 408(a) of the Act because (a) the Plan will have a perfected first security interest in insured collateral which will have a value throughout the terms of the Loans not less than 200% of the outstanding Loan balances; (b) Mr. Turner, a qualified, independent party, represents that the Loans will be in the best interests of the Plan and will monitor the terms and conditions of the Loans on behalf of the Plan; and (c) the Partners will personally guarantee the repayment of the Loans.

Notice to Interested Persons

Within 7 days after its publication in the **Federal Register** a copy of this notice of pendency will be hand delivered to each participant and beneficiary of the Plan. In addition, a companion notice will inform all interested persons of their right to comment on and/or request a hearing regarding the requested exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1) (F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation, of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, 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 (1) the Loans to the Employer as described herein, provided that the terms and conditions of the Loans are not less favorable to the Plan than those obtainable in arm's length transactions with an unrelated third party; and (2) the personal guarantees of the Employer's obligations with respect to the Loans by the Partners.

The proposed exemption, if granted, will be 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 transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of July 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. 82-21344 Filed 8-5-82; 8:45 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Reliability and Probabilistic Assessment; Addition of Exemption

The Exemption for ACRS Subcommittee on Reliability and Probabilistic Assessment scheduled for August 6, 1982, Room 1046, at 1717 H Street NW., Washington, DC, has been added as noted below:

The entire meeting will be open to public attendance except for those sessions which will be closed to discuss information provided in confidence by a foreign source. (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to discuss information provided in confidence by a foreign source. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

All other items regarding this meeting remain the same as announced in the **Federal Register** published Friday, July 16, 1982 (47 FR 31098).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Staff Engineer, Mr. J. Michael Grisemeyer (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. EDT. The Designated Federal Employee for this meeting is Mr. Gary Quittschreiber.

Dated: August 3, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-21321 Filed 8-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-313 and 50-368]

Arkansas Power and Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 66 and 34 to Facility Operating License Nos. DPR-51 and NPF-6, issued to Arkansas Power and Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit Nos. 1 and 2, respectively, (the facilities) located in Pope County, Arkansas. The amendments are effective as of the date of issuance.

The amendments revise the ANO-1&2 Environmental Technical Specifications relating to the reporting of radiological gaseous effluents and delete certain nonradiological water quality surveillance requirements of ANO-2 ETS Section 3.2.2.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments pertaining to the reporting requirements for both ANO-1&2 will not result in any significant environmental impact and that pursuant to 10 CFR/§ 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

With regard to the deletion of certain nonradiological water quality surveillance requirements of the ANO-2 TS, the Commission has determined that the issuance of the ANO-2 amendment is a ministerial action required as a matter of law and therefore no environmental impact statement or negative declaration and environmental impact appraisal need be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendments dated December 1, 1981, (2) Amendment No. 66 to License No. DPR-51 and Amendment No. 34 to License No. NPF-6, and (3) the Commission's letter dated July 29, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Arkansas Tech University, Russelville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 29th day of July, 1982

For the Nuclear Regulatory Commission.

Sydney Miner,

Acting Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-21312 Filed 8-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-317 and 50-318]

Baltimore Gas and Electric Co; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 73 and 54 to Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2 located in Calvert County, Maryland. The amendments are effective as of the date of issuance.

These amendments allow reactor operation through several operational modes with one inoperable control element assembly (CEA) position indicating channel per CEA group. In addition, TS 3.1.3.3 is reorganized to improve utilization and interpretation of these requirements.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated June 21, 1982, (2) Amendment Nos. 73 and 54 to License Nos. DPR–53 and DPR–69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of July, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–21313 Filed 8–5–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–317 and 318]

Baltimore Gas and Electric Co.; Issuance of Amendments to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 74 and 55 to Facility Operating Licenses Nos. DPR–53 and DPR–69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to extend the date for operability of the Hydrogen Analyzers from August 1, 1982 to September 30, 1982.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated July 20, 1982, (2) Amendment Nos. 74 and 55 to License Nos. DPR–53 and DPR–69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of July, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–21314 Filed 8–5–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–409]

Dairyland Power Cooperative; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Provisional Operating License No. DPR–45, issued to Dairyland Power Cooperative (the licensee), which revised the Technical Specifications for operation of the La Crosse Boiling Water Reactor (LACBWR) located in Vernon County, Wisconsin. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications which control entry to high radiation areas. The amendment also confirms an action taken by the Commission's staff as the result of an inadequacy in the implementation of administrative and procedural controls which caused a reduction in the degree of redundancy provided in reactor protection systems and a potential degradation of primary containment.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action see (1) the applications for amendment dated May 19, 1981 and September 24, 1981, (2) Amendment No. 29 to License No. DPR–45, and the emergency confirmation of May 20, 1981, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of July, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82–21315 Filed 8–5–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–250 and 50–251]

Florida Power and Light Co.; Issuance of Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 87 to Facility Operating License No. DPR–31, and Amendment No. 81 to Facility Operating License No. DPR–41 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments provide for redundancy in the residual heat removal system.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 30, 1980, (2) Amendments Nos. 87 and 81 to License Nos. DPR–31 and DPR–41, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of July 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-21316 Filed 8-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289—SP (Restart)]

Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1); Notice of Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of August 2, 1982, oral argument on the issues of plant design, procedures, and separation will be heard beginning at *9:30 a.m. on Wednesday, September 1, 1982,* in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: August 2, 1982.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-21320 Filed 8-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Company, et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 75 to Facility Operating License No. NPF–1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised the operating license for operation of the Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment authorizes operation with 22 fuel assemblies containing either three or five stainless steel rods in place of fuel rods for fuel cycle 5.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has detemined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 21, 1982, as supplemented June 18 and July 7, 1982, (2) Amendment No. 75 to License No. NPF–1, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local public document room located at the Multnomah County Library, Social Science and Science Department, 801 SW. 10th Avenue, Portland, Oregon 97205. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of July 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-21317 Filed 8-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and Cleveland Electric Illuminating Co.; Granting Relief From ASME Code Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to The Toledo Edison Company and The Cleveland Electric Illuminating Company, which revised the inservice inspection program for the Davis-Besse Nuclear Power Station, Unit No. 1, located in Ottawa County, Ohio. The ASME Code requirements are incorporated by reference into the Commission's Rules and Regulations in 10 CFR Part 50. The relief is effective as of the date of issuance.

This action provides relief from performing a hydrostatic test on certain piping system welds of the auxiliary feedwater header replacement system. An alternative pressure testing program will be performed.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief and accompanying Safety Evaluation.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the letter from The Toledo Edison Company dated June 22, 1982, (2) the letter to The Toledo Edison

Company dated July 29, 1982, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the William Carlson Library, University of Toledo, 2801 Bancroft Avenue, Toledo, Ohio. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of July 1982.

For the Nuclear Regulatory Commission.

Sydney Miner,

Acting Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-21318 Filed 8-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR-24, and Amendment No. 67 to Facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company (the licensee), which revised Technical Specifications for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective 60 days from date of issuance.

The amendments modify the limiting conditions for operation of the Technical Specifications with respect to the auxiliary feedwater pump operation.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 27, 1982, as supplemented June 30, 1982, (2) Amendment Nos. 62 and 67 to License Nos. DPR-24 and DPR-27, and (3) the Commission's letter dated July 27, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 27th day of July 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-21319 Filed 8-5-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

August 2, 1982.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Ingredient Technology
Common Stock, $1 Par Value (File No. 7-6277)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 23, 1982 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-21296 Filed 8-5-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12569; 812-5206; 812-5208]

CIGNA Cash Fund, Inc.; Filing of Applications

July 30, 1982.

In the matter of CIGNA Cash Fund, Inc., CIGNA Tax-Exempt Cash Fund, Inc., and CIGNA Securities, Inc., 950 Cottage Grove Road, Bloomfield, CT 06002 (812-5206) (812-5208).

Notice is hereby given that CIGNA Cash Fund, Inc. ("CIGNA Cash"), CIGNA Tax-Exempt Cash Fund, Inc. ("CIGNA Tax-Exempt") (collectively, the "Funds"), each registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, and CIGNA Securities, Inc. ("Distributor," collectively with the Funds, "Applicants"), the proposed principal underwriter of the Funds' shares, filed an application on June 18, 1982, and an amendment thereto on July 22, 1982, for an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit the net asset value of the Funds' shares to be calculated pursuant to the amortized cost method of valuation. All interested persons are referred to the applications on file with the Commission for a statement of the representations contained therein, which are summarized below.

The applications state that the Funds were organized under Maryland law on May 28, 1982. Each Fund is a "money market" fund. The investment objective of CIGNA Cash is to obtain for shareholders the maximum level of current income which is consistent with safety of principal and liquidity. CIGNA Tax-Exempt's investment objectives is to earn the maximum level of current income free from federal taxes which is consistent with safety of principal and liquidity. It will invest at least 80% of its assets in municipal money market instruments (including municipal bonds with remaining maturities of one year or less). For defensive purposes, or when

suitable tax-exempt obligations are unavailable, it may invest up to 20% of its assets in short-term instruments which are not tax-exempt. CIGNA Cash will invest in various short-term debt instruments. Each Fund may enter into reverse repurchase agreements with, and lend portfolio securities to, financial institutions, and each Fund has adopted investment policies satisfying the conditions set forth in its application.

Applicants state that the maturity of an instrument shall be determined in accordance with the provisions of proposed Rule 2a–7, set forth in Investment Company Act Release No. 12206, except that if that rule should ultimately be adopted, the maturity of an instrument shall be determined in accordance with the provisions of the Rule as adopted. When a Fund enters into a reverse repurchase or firm commitment agreement it will maintain in a segregated account (not with a broker), beginning on the date the Fund enters into such an agreement, liquid assets equal in value to the amount due on the settlement date under the agreement in accordance with Investment Company Act Release No. 10666 (April 18, 1979).

The boards of directors of the Funds believe that it is in the best interests of the Funds' potential shareholders to adopt the amortized cost method of valuation. According to Applicants, amortized cost valuation will permit relatively steady daily dividends to shareholders and, at the same time, shareholders would have the convenience of being able to value their holdings simply by knowing the number of shares they own.

The term "value" is defined in Section 2(a)(41) of the Act to mean the market value of securities for which market quotations are readily available, and for other securities and assets, the fair value as determined in good faith by the board of directors.

Rule 22c–1 under the Act provides, in part, that no registered investment company issuing any redeemable security, and no principal underwriter of any such security, shall sell, redeem or repurchase any security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a–4 under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to current market value for portfolio securities with respect to which market quotations are readily available and for other securities and assets fair value as determined in good faith by the board of directors of the registered company. In Investment Company Act Release No. 9786 (May 31, 1977), the Commission issued an interpretation of Rule 2a–4 expressing its view that, among other things, (1) the Rule requires that portfolio instruments of money market funds be valued with reference to market factors, and (2) it would be inconsistent, generally with the provisions of Rule 2a–4 for a money market fund to value its portfolio instruments on an amortized cost basis.

Section 6(c) of the Act provides, in part, 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 or any rule or regulation thereunder, if and 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.

Applicants submit that the issuance of the requested order is necessary and 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. Applicants consent to the following conditions to an order granting the relief requested in the applications:

1. In supervising the Funds' operations and delegating special responsibilities involving portfolio management to the Funds' investment adviser, the board of directors of each Fund undertakes—as a particular responsibility within the overall duty of care owed to that Fund's shareholders—to establish procedures reasonable designed, taking into account current market conditions and the Fund's investment objective, to stabilize the Fund's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of the Funds shall be the following:

(a) Review by each board of directors as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from that Fund's $1.00 amortized cost price per share and the maintenance of records of such review.[1]

(b) In the event that such deviation from either Fund's $1.00 amortized cost price per share should exceed ½ of 1%, a requirement that its board of directors will promptly consider what action, if any, should be initiated.

(c) Where either board of directors determines that the extent of any deviation from its Fund's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten that Fund's average portfolio maturity; suspending dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Each of the Funds will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that neither Fund will (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

4. Each Fund will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above and each Fund will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the meetings of that board of directors. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records to be maintained pursuant to rules adopted under Section 31(a) of the Act.

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[1] To fulfill this condition, the Funds intend to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of its discretion to by appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of securities published by reputable sources.

[2] In fulfilling this condition, each Fund agrees that if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, it will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

5. Each Fund will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service or in the case of an instrument that is not rated, of comparable quality as determined by its board of directors. The Funds' investments in repurchase agreements will be limited to transactions with financial institutions which are believed by the Funds' investment adviser to present minimal credit risks.

6. If any action pursuant to condition 2(c) is taken, the affected Fund will include in its next quarterly report, as an attachment to Form N–1Q, a statement describing the nature and circumstances of such action.

Notice is further given that any interested person may, not later than August 24, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant 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 herein will be issued as of course following said date 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 notices and orders issued in this matter, incuding 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. 82–21299 Filed 8–5–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22592; 70–6673]

Columbia Gas System, Inc.; Proposed Increases in Intrasystem Financing and Short-Term Financing by Holding Company and Supplemental Order Authorizing Certain Intrasystem Financing and Reserving Jurisdiction

July 30, 1982.

In the matter of the Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas System Service Corporation, Columbia LNG Corporation, Columbia Alaskan Gas Transmission Corporation, Wilmington, Delaware; Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314; Columbia Gas of Kentucky, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of New York, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of West Virginia, Inc., Columbus, Ohio; Columbia Gulf Transmission Company, Houston, Texas; Columbia Gas Development of Canada Ltd., Calgary, Alberta, Canada; Columbia Gas Development Corporation, Houston, Texas; Commonwealth Gas Pipeline Corporation, 200 South Third Street, Richmond, Virginia 23219; Commonwealth Gas Services, Inc., Commonwealth Propane, Inc., Richmond, Virginia; Columbia Hydrocarbon Corporation, 340 17th Street, Ashland, Kentucky 41101; The Inland Gas Company, Inc., Columbia Coal Gasification Corporation, Ashland, Kentucky (70–6673).

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its subsidiary companies named above have filed with this Commission a further post-effective amendment to its application-declaration in this proceeding pursuant to Sections 6(a), 6(b), 7, 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5) promulgated thereunder.

By orders in this proceeding dated December 30, 1981, February 19, 1982, and April 9, 1982 (HCAR Nos. 22349, 22393, and 22452), Columbia and some of its wholly-owned subsidiary companies were, among other things, authorized to engage in certain intrasystem financing. Jurisdiction was reserved over those transactions as to which the record was not complete.

With the filing of the order of the Pennsylvania Public Utility Commission, the record is now complete with respect to the issuance and sale by Columbia Gas of Pennsylvania, Inc. to Columbia of common stock up to the amount of $17,000,000 (or 680,000 shares at $25/share) and notes up to $4,000,000.

The requisite authorization for certain transactions has not yet been obtained from the state public-utility commission for Columbia Gas of New York, Inc., and jurisdiction will cntinue to be reserved with respect thereto.

The application-declaration has also been amended to increase the financing of certain subsidiaries, Columbia Gas Transmission Corporation ("Columbia Transmission"), Columbia Hydrocarbon Corporation ("Hydrocarbon") and Commonwealth Gas Pipeline Hydrocarbon Corporation ("Commonwealth Pipeline"), to increase Columbia's external short-term financing to provide for certain subsidiaries' short-term needs, and to increase Commonwealth Pipeline's prepayment program all as more fully described below.

Hydrocarbon and Commonwealth Pipeline have been authorized to issue to Columbia up to $400,000 and $6,000,000, respectively, of Installment Promissory and/or Floating Rate Term Notes ("Notes") to partially finance their 1982 capital expenditure programs. Hydrocarbon's capital expenditure program has increased by $5,780,000, and Commonwealth Pipeline's working capital requirements have increased by approximately $3,200,000. Therefore, Columbia now requests that the Note authorizations for Hydrocarbon and Commonwealth Pipeline be increased to $4,600,000 and $9,200,000 respectively.

Columbia was authorized to advance on open account to Columbia Transmission and Hydrocarbon up to $275,000,000 and $11,000,000, respectively. Columbia Transmission's cost of gas purchased for storage has increased substantially, making the original authorization inadequate. Hydrocarbon's propane inventory has risen to make its initial financing authorization insufficient for the remainder of the year. Columbia proposes to increase its advances to Columbia Transmission and Hydrocarbon up to the aggregate amounts of $475,000,000 and $16,000,000, respectively.

Columbia was also authorized to have outstanding at any one time through December 31, 1982, up to $450,000,000 principal amount of short-term notes. Columbia now requests that, through May 31, 1983, the exemption from the provisions of 6(a) of the Act afforded it by the first sentence of 6(b), relative to the issue and sale of short-term notes, be increased from 5% to approximately 35% and that Columbia be permitted to

issue through May 31, 1983, and/or have outstanding, at any one time, up to $600,000,000 principal amount of short-term notes. Columbia's short-term notes will be in the form of either commercial paper or notes under bank credit lines. Generally, the action requested of the Commission is designed to enable Columbia to furnish funds to its subsidiaries for the purchase of gas for underground storage and liquid hydrocarbon inventories and for other short-term requirements.

Finally, it is requested that the authorized pipeline prepayments of up to $6,000,000 of Commonwealth Pipeline be increased to an aggregate amount not to exceed $9,200,000.

The post-effective amendment to the application-declaration and any further amendments are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 27, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective.

Due notice thereof having been given in the manner prescribed in Rule 23 promulgated under the Act (HCAR No. 22292) and no hearing having been requested of or ordered by the Commission, upon the basis of the facts in the record, it is hereby found with respect to the proposed transactions of Columbia Gas of Pennsylvania, Inc., that the applicable provisions of the Act and rules promulgated thereunder are satisfied:

It is ordered, pursuant to the applicable provisions of the Act and the rules thereunder, that the application-declaration, as amended, be, and it hereby is, granted and permitted to become effective forthwith with respect to the proposed transactions of Columbia Gas of Pennsylvania, Inc., subject to the terms and conditions prescribed in Rule 24 promulgated under the Act, except that the time for filing the certification thereunder is extended as requested so as to allow filing on a quarterly basis.

It is further ordered that jurisdiction be, and it hereby is, reserved over the proposed transactions of Columbia Gas of New York, Inc., as to which the record is not yet complete, and the proposed increases contained in the post-effective amendment.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-21298 Filed 8-5-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22590; 70-6763]

Energynorth, Inc.; Proposed Acquisition of Gas Utility Companies

July 30, 1982.

In the matter of Energynorth, Inc., P.O. Box 329, Manchester, New Hampshire 03105 (70-6763).

EnergyNorth, Inc. ("ENI"), a New Hampshire corporation, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a)(2) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

ENI is a newly-organized corporation formed for the purpose of becoming a holding company and acquiring the common stock of Manchester Gas Company ("MGC") and Gas Service, Inc. ("GSI"), both of which are New Hampshire corporations and gas utility companies as defined in Section 2(a)(4). ENI, MGC and GSI have entered into an Agreement and Plan of Exchange ("Plan") under which ENI will acquire all of the issued and outstanding common stock of MGC and GSI, except for shares held by persons who perfect their right to dissent and be paid fair value for their shares. The acquisition will be accomplished by means of two simultaneous statutory share exchanges pursuant to which (1) each share of GSI common stock, $25 par value, outstanding at the time of consummation ("Effective Date") will by operation of law be exchanged for two shares of ENI capital stock, $1.00 par value, and (2) each share of MGC common stock, $5.00 par value, outstanding at the Effective Date will be operation of law be exchanged for one share of ENI capital stock, $1.00 par value. As a result ENI will become the owner of all the common stock of GSI and MGC.

Approval of the Plan requires the affirmative vote of a majority of the outstanding shares of (1) GSI common stock, and (2) MGC common stock and preferred stock, voting together as a single class. Consummation of the Plan is also subject to various other conditions, including one that the holders of not more than 10% of the shares of either common or preferred stock (both classes having such rights) of MGC or GSI shall have perfected their rights to dissent. No preferred stock or debt securities of MGC or GSI will be exchanged or redeemed (except for payment to shareholders of preferred stock who have perfected their dissenter's rights), and following consummation of the Plan ENI will have no securities outstanding other than common stock.

MGC is a gas utility company engaged in the purchase, distribution and sale of natural gas in a 135 square mile area entirely within New Hampshire. It provides service to approximately 16,000 customers in and around the communities of Manchester, Bedford and Goffstown and in a part of the Town of Hooksett. It also distributes propane through delivery by truck of cylinders or bulk supply, and is engaged in equipment rental operations and appliance sales. MGC has two wholly-owned subsidiaries, (1) Merrimack Valley Exploration Corporation, currently inactive, which was formed in the mid-1970's to particiapte with others in gas exploration and development, and (2) Rent-A-Space of New England, Inc., which owns and operates a self-service storage facility in Manchester. There is no present plan to transfer these subsidiaries to ENI. At September 30, 1980, MGC reported total assets of $15,837,512, net plant and equipment of $12,360,178 and total common shareholders' equity of $3,729,734. For its fiscal year then ended it reported total revenues of $13,422,961 ($11,176,341 from natural gas service), and net income applicable to common stock of $237,942.

GSI is a gas utility company engaged in the purchase, distribution and sale of natural gas in a 320 square mile area, entirely within New Hampshire. It provides service to approximately 20,000 customers. Its franchise territory is comprised of two parts: (1) An area encompassing the communities of Milford, Amherst, Merrimack, Nashua and Hudson, which area is immediately south of and contiguous to MGC's service area; and (2) an area encompassing Northfield, Franklin, Tilton and other communities, which area is approximately 20 miles north of MGC's service territory. GSI also

distributes propane through bulk delivery by truck, and is enaged in equipment rental operations and in appliance and jobbing sales. GSI has one wholly-owned subsidiary, Energy Resources Corporation, currently inactive, which was formed in the mid-1970's to participate with others in gas exploration and development. There is no present plan to transfer this subsidiary to ENI. At December 31, 1981, GSI reported total assets of $19,123,681, net utility plant of $12,655,515 and total common shareholders' equity of $3,480,230. For the year then ended it reported total revenues of $23,497,249 ($22,388,523 from natural gas service), and net income applicable to common stock of $86,914.

It is stated that the objective of the acquisitions by ENI is to create a corporate structure that will give MGC and GSI greater financial capability and administrative flexibility. ENI is also expected to have greater potential to diversify into businesses other than the sale of natural gas, but generally related to the utility businesses of MGC and GSI. Various operational benefits are also expected to result. These include possibilities for centralized and coordinated planning with respect to gas supplies and peak-shaving needs, as well as the elimination of certain duplicated operations such as purchase and maintenance of inventories, engineering services, and repairs and meter service. In addition, it is anticipated that certain cost savings will be achieved in the areas of tax and accounting services, insurance, employee benefits and data processing.

ENI is not now a holding company, and does not intend to register as such if th acquisition is approved and the Plan consummated. ENI states that it will be entitled to an exemption under Section 3(a)(1) of the Act on the basis that it and its pubic utility subsidiaries "are predominantly intrastate in character and carry on their business substantially in a single state in which such holding company and every such subsidiary thereof are organized." ENI intends to claim such exemption by appropriate filing pursuant to Rule 2.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. ENI, MGC and GSI have requested approval of the proposed transaction by the New Hampshire Public Service Commission. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction thereover.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 27, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on this applicant at the address specified above. Proof of sevice (by affidavit or in the case of an attorney-at-law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-21301 Filed 8-5-82; 8:45 am]

BILLING CODE 8010-01-M

[File No 22-11745]

Merrill Lynch & Co., Inc.; Application and Opportunity for Hearing

August 2, 1982.

Notice is hereby given that Merrill Lynch & Co., Inc., (the "Company") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Citibank, N.A. ("Citibank") under an indenture of the Company dated as of November 1, 1980 (the "1980 Indenture"), which was heretofore qualified under the Act, and the trusteeship by Citibank under an indenture between the Company and Citibank, N.A., Trustee, dated as of June 15, 1982 (the "1982 Indenture"), are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as Trustee under the 1980 Indenture.

In support of its application the Company alleges that:

(1) The Company has outstanding on the date hereof $100,000,000 aggregate principal amount of its 9¼% Convertible Subordinated Debentures Due 2005 (the "Debentures") issued under the 1980 Indenture executed by the Company and Citibank, as Trustee. The Debentures were registered under the Securities Act of 1933, as amended (the "Securities Act") (Filed No. 2-69610), and the 1980 Indenture was qualified under the Trust Indenture Act of 1939, as amended (File No. 22-10791). Citibank is currently acting as Trustee under the 1980 Indenture.

(2) Pursuant to the 1982 Indenture, there were issued $40,073,000 aggregate principal amount of 10.3% Convertible Subordinated Debentures Due 2005 (the "1982 Debentures"). The aggregate principal amount of 1982 Debentures which may be authenticated and delivered under the 1982 Indenture is limited to $61,697,000. Inasmuch as the 1982 Debentures are being offered and sold to a private investor or investors for investment and not with a view to distribution, the issuance of the 1982 Debentures was therefore exempt from registration and the 1982 Debentures have not been registered under the Securities Act. Accordingly, the 1982 Indenture was not qualified under the Trust Indenture Act.

(3) Section 608 of the 1980 Indenture provides in part as follows:

"(a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect hereinafter specified in this Article.

"(b) In the event that the Trustee shall fail to comply with the provisions of Subsection (a) of this Section, the Trustee shall, within 10 days after the expiration of such 90-day period, transmit by mail to all Holders, as their names and addresses appear in the Debenture Register, notice of such failure.

"(c) For the purposes of this Section, the Trustee shall be deemed to have a conflicting interest if

"(1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Debentures issued under this Indenture, *provided that* there shall be excluded from the operation of this paragraph any indenture or indentures under which securities, or certificates of interest or participation in other securities, of the Company are outstanding, if

"(i) this Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act, unless the Commission shall have found and declared by order pursuant to Section 305(b) or Section 307(c) of the Trust Indenture Act that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture and such other indenture or indentures, or

(ii) The Company shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures;"

(4) Execution of the 1982 Indenture involves Citibank in a conflict of interest within the meaning of Section 608 of the 1980 Indenture since the 1982 Indenture has not been qualified under the Trust Indenture Act and is not the subject of any other proceeding of the Commission.

(5) The 1980 and 1982 Indentures are wholly unsecured and the Debentures and the 1982 Debentures rank on a parity with each other. The only material differences between the 1980 Indenture and the 1982 Indenture, and between the rights of the holders of the Debentures and the holders of the 1982 Debentures, relate to aggregate principle amounts, dates of issue, interest rates, redemption or prepayment rights and prices, sinking fund amounts, restrictions on transferability, provisions for conflicting interest of the Trustee and other provisions of a similar nature. Any such differences and any other difference in the provisions of the 1980 Indenture and the 1982 Indenture are unlikely to cause any conflict of interest between the respective trusteeships of Citibank under said Indentures.

(6) The Company is not in default under the 1980 Indenture or the 1982 Indenture.

(7) Such differences as exist between the 1980 Indenture and the 1982 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as Trustee under the 1980 Indenture.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is on file in the offices of the Commission at 450 5th Street, N.W., Washington, D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after August 31, 1982, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Trust Indenture Act defined above. Any interested person may, not later than August 30, 1982 at 5:30 P.M., Eastern Daylight Savings Time, in writing, submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-21295 Filed 8-5-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22588; 70-6752]

New England Electric System; Proposal To Make Capital Contributions and To Retire Short-Term Debt

July 30, 1982.

In the matter of New England Electric System, New England Power Co., 25 Research Drive, Westborough, Massachusetts 01581 (70-6752).

New England Electric System ("NEES"), a registered holding company, and one of its operating subsidiaries, New England Power Company ("NEP"), have filed an application-declaration with this Commission pursuant to Sections 9(a) and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 42 promulgated thereunder.

NEES proposes to make one or more capital contributions to NEP not to exceed an aggregate of $50 million during the period beginning with the date of the order authorizing the transactions proposed herein through and including June 30, 1983. NEP will apply the funds received from said capital contributions toward the payment of a like amount of its short-term promissory notes issued or to be issued, or to pay for capitalizable expenditures, or to reimburse the treasury therefor. NEP's short-term borrowing limit is currently $195,000,000 effective through March 31, 1983 as authorized by this Commission's Order dated March 31, 1982 (HCAR No. 22438). Payment of short-term promissory notes will be made on the basis most favorable to NEP, taking into account fixed maturities, interest rates, and any other relevant financial consideration.

The application-declaration and amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 26, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-21300 Filed 8-5-82; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

August 2, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

C. R. Bard, Inc.
Common Stock, $.25 Par Value (File No. 7-6278)
Church's Fried Chicken, Inc.
Common Stock, $.04 Par Value (File No. 7-6279)
Nicolet Instrument Corp.
Common Stock, $.25 Par Value (File No. 7-6280)
Williams Electronics, Inc.
Common Stock, $.50 Par Value (File No. 7-6281)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 23, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the

Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority,

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-21297 Filed 8-5-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region III Advisory Council; Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Clarksburg, West Virginia, will hold a public meeting at 10:00 a.m., Wednesday, September 22, 1982, at the Sheraton Inn, 153 West Main Street, Clarksburg, West Virginia, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Arthur J. Glick, District Director, U.S. Small Business Administration, 109 North Third Street, Clarksburg, West Virginia 26301—(304) 622-6601.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

August 2, 1982.

[FR Doc. 82-21359 Filed 8-5-82; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council; Public Meeting

The U.S. Small Business Administration, Wisconsin District Advisory Council, located in the geographical area of Madison, will hold a public meeting at 10:00 a.m., on Thursday, August 19, 1982, at the Federal Center, 212 East Washington Avenue, Room 213, Madison, Wisconsin, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information write or call Curtis A. Charter, District Director, U.S. Small Business Administration, 212 East Washington Avenue, Room 213, Madison, Wisconsin, (608) 264-5205.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

August 2, 1982.

[FR Doc. 82-21360 Filed 8-5-82; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of a Reporting Requirement Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before August 31, 1982. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency clearance officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814

FORM SUBMITTED FOR REVIEW:

Title: An Economic Impact Study and Evaluation of Small Business Development Centers (SBDC)

Form No.: (Not applicable to nonrecurring forms)

Frequency: Nonrecurring

Description of Respondents: Small business managers who have used services of SBDC's

Annual Responses: 4,000

Annual Burden Hours: 2,200

Type of Request: New

Dated: August 3, 1982.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 82-21358 Filed 8-5-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0235]

Universal Investment Corp.; Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Universal Investment Corporation, 110 E. Ann Street, Carson City, Nevada 89701 a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), (15 U.S.C. 661 *et seq.*), has filed an application with the Small Business Administration, pursuant to section 312 of the Act and covered by § 107.1004(b)(1) of the regulations governing small business investment companies (SBICs/Licensees) (15 FR 107.1004 (1982)), for approval of a conflict of interest transaction falling within the scope of the above sections of the Act and Regulations.

The Licensee proposes to make a $40,000 loan to Newman Construction, Ltd (Newman). Newman is considered to be an Associate of the Licensee under Section 107.3(h) of the Regulations as Mr. Roger DuCharme, Vice President of the Licensee, is also an employee of a company partially owned by the owner of Newman.

Notice is hereby given that any person may, not later than ten (10) days from the date of this notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Carson City, Nevada.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 30, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-21361 Filed 8-5-82; 8:45 am]

BILLING CODE 8025-01-M

Region V—Advisory Council; Public Meeting

The Small Business Administration, Region V Minneapolis Advisory Council, located in the geographical area of Minneapolis, Minnesota, will hold a

public meeting on Thursday, August 26, 1982, at 10:00 a.m., at McNeely Hall, Room 301, College of St. Thomas, 2100 Summit Avenue, St. Paul, Minnesota, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Paul W. Jansen, District Director, U.S. Small Business Administration, 610–C Butler Square, 100 North Sixth Street, Minneapolis, Minnesota 55403 612/349–3530.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

July 30, 1982.

[FR Doc. 82–21256 Filed 8–5–82; 8:45 am]

BILLING CODE 8025–01–M

Region VIII—Advisory Council; Public Meeting

The Small Business Administration, Region VIII Casper, Wyoming, Advisory Council, located in the geographical area of Casper, Wyoming, will hold a public meeting on August 27, 1982, between the hours of 8:00 a.m. and 2:30 p.m. in Room 4124 of the Federal Building, 100 East "B" Street, Casper, Wyoming, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Paul W. Nemetz, Acting District Director, U.S. Small Business Administration, 100 East "B" Street, Casper, Wyoming 82601 (307) 265–5266.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

July 30, 1982.

[FR Doc. 82–21255 Filed 8–5–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TREASURY

Public Information Collection Requirements Submitted to OMB for Review

During the period July 23 through July 29, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. NW., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of each entry.

Date Submitted: July 29, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545–0029.

Form Number: 941, 941E, 941PR and 941SS.

Type of Submission: Revision.

Title: Quarterly Federal Tax Return; Quarterly Return of Withheld Federal Income Tax.

Purpose: Form 941 is used by employers to report payments made to employees subject to income and FICA taxes and the amounts of these taxes. Form 941E is used primarily by State and local government to report withheld income taxes only. Form 941PR is used by employers in Puerto Rico to report FICA taxes only and Form 941SS is used by employers in the U.S. possessions to report FICA taxes only. The data is used primarily to verify that the correct taxes have been paid.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: July 28, 1982.

Submitting Bureau: Comptroller of the Currency.

OMB Number: 1557–0012.

Form Number: CC–7030–01.

Type of Submission: Extension.

Title: Application to Establish a Federal branch or agency.

Purpose: Form is used by foreign banks to make application with the Office of the Comptroller of the Currency for the establishment of new Federal branches, new Limited Federal branches, and new Federal agencies to be operated in the United States.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: July 28, 1982.

Submitting Bureau: Comptroller of the Currency.

OMB Number: 1557–0135.

Form Number: Letter Request-Employee Compensation.

Type of Submission: Extension.

Title: Letter request for an Employee Compensation Plan.

Purpose: Office of the Comptroller of the Currency regulations 12 CFR 5, requires that a national bank must obtain prior approval of the Comptroller of the Currency to implement certain employee compensation plans. This letter provides information describing the proposed plan.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: July 28, 1982.

Submitting Bureau: Comptroller of the Currency.

OMB Number: 1557–0035.

Form Number: CC–7023–05.

Type of Submission: Extension.

Title: Agreement to merge.

Purpose: Form requires that a national bank proposing to acquire another bank through merger obtain prior OCC approval. Bank must submit an agreement setting forth the terms of the merger.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: July 28, 1982.

Submitting Bureau: Comptroller of the Currency.

OMB Number: 1557–0010.

Form Number: CC 7029–09, CC 7029–18, CC 7028–31 and CC 7026–01.

Type of Submission: Extension.

Title: Sample resolutions and amendments to Articles of Association.

Purpose: Form CC–7029–09 is used by a national bank to forward to OCC a certified copy of every amendment to the bank's articles of association adopted by the shareholders. Form CC–7029–18 is used by a national bank to advise the OCC of changes to its by-laws and that the changes were properly adopted by directors. CC–7028–31 is used by a national bank that has changed its Articles of Association and to certify that changes were adopted by the shareholders. CC–7026–01 used by a national bank to request approval to changes of its title.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: July 28, 1982.

Submitting Bureau: Comptroller of the Currency.

OMB Number: 1557–0051.

Form Number: CC–7023–06.

Type of Submission: Extension.

Title: Agreement of Consolidation.

Purpose: Form requires that a national bank seeking to consolidate with another bank obtain prior approval of the OCC. Bank must submit an agreement setting forth the terms of the consolidation.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: July 28, 1982.

Submitting Bureau: Comptroller of the Currency.

OMB Number: 1557–0037.

Form Number: CC–7023–02.

Type of Submission: Extension.

Title: Application for approval to (merge, consolidate, purchase).

Purpose: Form used by a national bank to make application to acquire another bank by merger. This form requests that approval and provides information used in the decision process.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,

Departmental Reports Management Officer.

August 2, 1982.

[FR Doc. 82–21322 Filed 8–5–82; 8:45 am]

BILLING CODE 4810–25–M

Bureau of Engraving and Printing

Order of Succession and Delegation of Authority to Act as Director in a National Security Emergency

AGENCY: Bureau of Engraving and Printing, Treasury.

ACTION: Delegation of authority.

SUMMARY: This notice provides for the establishment of lines of succession, including delegations of authority, to act as the Director of the Bureau of Engraving and Printing in the event of a national security emergency. Under the authority conferred upon me by Treasury Department Order No. 129, Revised, dated April 22, 1955, the following officials of the Bureau of Engraving and Printing, in the order of succession enumerated, shall act as Director of the Bureau of Engraving and Printing during the absence or disability of the Director in the event of a national security emergency:

(1) Deputy Director.

(2) Assistant Director (Administration).

(3) Assistant Director (Operations).

(4) Assistant Director (Research and Engineering).

(5) Project Director, Satellite Facility.

The officials named herein are authorized to exercise so much of the authority of the Secretary of the Treasury and of the Director of the Bureau of Engraving and Printing as is necessary to ensure continuous performance of all essential functions of the Bureau of Engraving and Printing. The respective officials will be notified when they are to cease to exercise the authority herein delegated. This order of succession supersedes the order of this Bureau dated August 4, 1975.

Dated: August 3, 1982.

Harry R. Clements,

Director.

[FR Doc. 82–21356 Filed 8–5–82; 8:45 am]

BILLING CODE 4840–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 152
Friday, August 6, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M–359, Amdt.1; August 2, 1982]

Addition and Closure of Item To the August 5, 1982 Meeting

TIME AND DATE: 10 a.m., August 5, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 29. Negotiations with Venezuela (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–1143–82 Filed 8–4–82; 3:36 pm]

BILLING CODE 6320–01–M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, August 13, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., Eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1144–82 filed 8–4–82; 4:00 pm]

BILLING CODE 6351–01–M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Tuesday, Wednesday, and Thursday, August 10, 11 and 12.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: *FY 83 Operating Plan and FY 84 Budget:*

The staff and the Commission will discuss issues related to the development of an Operating Plan for Fiscal Year 1983 and a Budget for Fiscal Year 1984.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Avenue, Bethesda, MD 20207; Telehone (301) 492–6800.

[S–1136–82 Filed 8–4–82; 11:08 am]

BILLING CODE 6355–01–M

4

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From August 4th Open Meeting

The following item has been deleted at the request of the Office of the Chairman from the list of agenda items scheduled for consideration at the August 4, 1982, Open Meeting, and previously listed in the Commission's Notice of July 28, 1982.

Agenda, Item No., and Subject

Common Carrier—4—*Title: Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board,* CC Docket No. 80–286. *Summary:* The Commission will consider a petition for reconsideration of the recently adopted plan for the phase out of customer premises equipment from the Separations process over a five-year period.

Issued: July 30, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1137–82 Filed 8–4–82; 11:08 am]

BILLING CODE 6712–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, August 2, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Redwood Bank, San Francisco, California, for consent to purchase the assets of and assume the liability to pay deposits made in the Beverly Hills Branch of Barclays Bank of California, San Francisco, California, and to establish that branch as a branch of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,317–L (Addendum)—Metropolitan Bank and Trust Company, Tampa, Florida

Case No. 45,321–L—Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico

Case No. 45,322–L (Amended)—Farmers State Bank and Lewistown, Lewistown, Illinois

Case No. 45,323–L—The Drovers' National Bank of Chicago, Chicago, Illinois

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: August 2, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1133–82 Filed 8–4–82; 11:08 am]

BILLING CODE 6714–01–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, August 2, 1982, the Corporation's Board ofDirectors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for

consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,307-L—Franklin National Bank, New York, New York

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsection (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B)).

Dated: August 2, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1134-82 Filed 8-4-82; 11:08 am]

BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:40 p.m. on Friday, July 30, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Unity Bank and Trust Company, Boston, Massachusetts, which was closed by the Commissioner of Banks for the Commonwealth of Massachusetts on Friday, July 30, 1982; (2) accept the bid for the transaction submitted by The Boston Bank of Commerce, Boston, Massachusetts, a newly-chartered State nonmember bank; (3) approve the applications of The Boston Bank of Commerce, Boston, Massachusetts, for Federal deposit insurance and for the Corporation's consent to purchase certain assets of and assume the liability to pay deposits made in Unity Bank and Trust Company, Boston, Massachusetts, and to establish the main office and branch of Unity Bank and Trust Company as branches of the resultant bank; and (4) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Paul M. Homan, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 2, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1135-82 Filed 8-4-82; 11:08 am]

BILLING CODE 6714-01-M

8

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 2 p.m., Wednesday, August 11, 1982.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

MATTERS TO BE CONSIDERED:

Application for Extension of Time to Establish a Satellite Office—Florida Federal Savings and Loan Association, St. Petersburg, Florida

Delegation of Authority to the Principal Supervisory Agent at the FLHBank of Pittsburgh

Application for Merger—Northwestern Federal Savings and Loan Association of Williston, Williston, North Dakota *into* Metropolitan Federal Savings and Loan Association of Fargo, Fargo, North Dakota

Waiver and Modification of Conditions—Central Savings and Loan Association (In Organization), Stuart, Florida

Service Corporation Activity Institutional Investors Corporation, a subsidiary of—Western Federal Savings and Loan Association, Denver, Colorado

Authority for Federal Associations to Act as Depositary and Fiscal Agent of the Government

Home Loan Amendments.

[No. 54, August 4, 1982]

[S-1132-82 Filed 8-4-82; 10:12 am]

BILLING CODE 6720-01-M

9

FEDERAL RESERVE SYSTEM

(Board of Governors)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR, 32834, Thursday, July 29, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, August 4, 1982.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Proposed acquisition of a telephone system within the Federal Reserve System. (This matter was originally announced for a meeting on August 2, 1982.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: August 4, 1982.

William W. Wiles,

Secretary of the Board.

[S-1138-82 Filed 8-4-82; 12:20 pm]

BILLING CODE 6210-01-M

10

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, August 11, 1982.

PLACE: 20th Street and Constitution Avenue, NW., 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: August 4, 1982.

William W. Wiles,

Secretary of the Board.

[S-1139-82 Filed 8-4-82; 2:14 pm]

BILLING CODE 6210-01-M

11

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-29A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 32511, July 27, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:30 p.m., Thursday, August 5, 1982.

CHANGES IN THE MEETING: Cancellation of subject meeting.

By unanimous consent, and in conformity with 19 CFR 201.37(b), Commissioners Eckes, Stern, Calhoun, Frank, and Haggart determined that Commission business requires cancellation of the meeting and affirmed that no earlier announcement of the change in schedule was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1140-82 Filed 8-4-82; 3:36 pm]

BILLING CODE 7020-02-M

12

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-30A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 33579, August 11, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, August 11, 1982.

CHANGES IN THE MEETING: Emergency addition to the agenda: In deliberations held Tuesday, August 3, 1982, the Commission approved addition of the following item to its agenda for the meeting to be held on Wednesday, August 11, 1982:

4. Petitions and complaints, if necessary:
c. Certain amino acid formulations (Docket No. 852).

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1141-82 Filed 8-4-82; 3:36 pm]

BILLING CODE 7020-02-M

13

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-31]

TIME AND DATE: 3:30 p.m., Tuesday, August 17, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. Certain microcarriers (Docket No. 857).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1142-82 Filed 8-4-82; 3:36 pm]

BILLING CODE 7020-02-M

Federal Register

Friday
August 6, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Iowa:	
IA82–4030	June 4, 1982.
Louisiana:	
LA82–4020	May 7, 1982.
LA82–4021	May 7, 1982.
New York:	
NY81–3030	May 1, 1981.
NY81–3061	Sept. 11, 1981.
Ohio:	
OH82–2035	May 7, 1982.
OH82–2036	May 7, 1982.
Texas:	
TX82–4001	Jan. 29, 1982.
TX82–4002	Jan. 15, 1982.
TX82–4024	June 18, 1982.
TX82–4026	June 18, 1982.
TX82–4027	June 18, 1982.
TX82–4029	June 18, 1982.
Minnesota:	
MN81–2042	July 24, 1981.
Utah:	
UT81–5156	Oct. 2, 1981.
Wyoming:	
WY82–5106	Mar. 12, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida, Georgia, North Carolina, South Carolina, Virginia and Washington, D.C.: GA82–2041 (GA–1038).	June 25, 1982.
Nebraska:	
NE80–4056 (NE82–4040)	July 18, 1980.
Nevada:	
NV81–5102 (NV82–5113)	Feb. 6, 1981.
NV81–5152 (NV82–5116)	Sept. 18, 1981.
NV81–5161 (NV82–5114)	Nov. 6, 1981.
NV82–5110 (NV82–5115)	Apr. 30, 1982.

Please note that we are changing the format for **Federal Register** wage

decisions to coincide with the provisions of All Agency Memorandum No. 132 dated January 29, 1980, which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedure is being phased in gradually.

Signed at Washington, D.C. this 30th day of July 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION NO. IA82-4030 - MOD. #2 (47 FR 26537 - 6/4/82) Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Cos., Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Cement masons:		
Zones 6 & 7	$14.67	.90
Zone 8	13.72	.94
Ironworkers - Zone 4	16.15	2.21
Plasterers - Zone 8	13.795	.90
Roofers - Zone 1	12.76	

DECISION NO. LA82-4020 - MOD. #4 (47 FR 19880 - 5/7/82) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers & stonemason:		
Zone 5	$13.75	
Carpenters:		
Zone 4: Carpenters & piledrivermen	14.90	1.45
Cement masons - Zone 4	13.81	1.48
Zone 5	13.75	
Laborers:		
Zone 6:		
Group 1	10.52	.85
Group 2	10.62	.85
Group 3	10.77	.85
Group 4 - Bricklayer & mason tender	10.68	.85
Group 5 - Hod carrier using a prime mover to serve a bricklayer; mortar mixer, either hand or machine	10.78	.85
Zone 7 - Group 1	10.20	.85
Group 2	10.35	.85
Group 3	10.40	.85
Zone 10 - Group 1	8.15	.75
Group 2	8.30	.75
Group 3	8.45	.75
Lathers - Zone 5	14.90	1.45
Marble, tile & terrazzo workers & finishers:		
Zone 7 - Tile setters	13.75	
Plasterers - Zone 1	13.20	
Zone 5	12.08	1.58
Plumbers & pipefitters:		
Zone 3	14.25	2.35
OMIT:		
Roofers:		
Zone 5 - Kettlemen	8.90	.24

DECISION NO. LA82-4021 - MOD. #3 (47 FR 19877 - 5/7/82) Bossier & Caddo Pars., Louisiana	Basic Hourly Rates	Fringe Benefits
OMIT		
Roofers - Kettlemen	$8.90	.24

DECISION NO. NY81-3030 - MOD. #5 (46 FR 24850 - May 1, 1981) CATTARAUGUS, CHAUTAUQUA & ERIE COUNTIES, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLUMBERS & STEAMFITTERS CATTARAUGUS COUNTY CHAUTAUQUA COUNTY (REMAINDER OF COUNTY) & ERIE COUNTY	16.49	3.56

DECISION NO. NY81-3061 - MOD. #2 (46 FR 45525 - Sept. 11, 1981) CLINTON COUNTY, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS & SOFT FLOOR LAYERS	12.60	1.755+ a
LABORERS, BUILDING Commercial Laborers and self propelled equipment operators	10.05	1.85+f

MODIFICATION PAGE 2

DECISION NO. OH82-2035 - MOD. #3 (47 FR 19893 - May 7, 1982) Statewide, Ohio	Basic Hourly Rates	Fringe Benefits
Change:		
ELECTRICIANS:		
ADAMS, JACKSON (All but Coal, Jackson, Liberty, Milton & Washington Twps.), PIKE (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish, & Union) & SCIOTO COS.	17.03	3.32
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, & VAN WERT COS. & WYANDOT CO. (West of Crane. Pitt, & Tymochtee Twps.)	16.25	2.51
ASHLAND, CRAWFORD, HURON (Twps. of Greenwich, New Haven, Richmond, & Ripley), KNOX (N½ Incl. Clinton, Howard, Liberty, Monroe & Union Twps.), MARION, MORROW, RICHLAND, & WYANDOT (Rem. of Co.) COS.	16.65	2.22
ASHTABULA, (Rem. of Co.), GEAUGA (Twps. of Auburn, Middlefield, Parkman, & Troy), MAHONING (Milton Twp.), PORTAGE (Twps. of Charleston, Edinburg, Freedom, Hiram, Palmyra, Paris, & Windham) & TRUMBULL (except Hubbard & Liberty Twps. COS.	18.23	2.77
ATHENS, MEIGS, MONROE, MORGAN, NOBLE, VINTON (East of Clinton, Elk and Swan Twps.) & WASHINGTON COS.:		
Electricians	16.25	4.56
Cable Splicers	16.50	4.57
BROWN, CLERMONT & HAMILTON COUNTIES:		
Within 18 Mi. of Hamilton County Court House	17.75	3.17
From 18 to 21 Miles	18.05	3.18
From 21 to 25 Miles	18.15	3.185
Over 25 Miles	18.30	3.19
CARROLL (Rem. of Co.), COLUMBIANA (Knox Twp.), HOLMES, MAHONING (Smith Twp.), STARK, TUSCARAWAS (N½ excl. Twps. of Auburn Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry, & Bucks), & WAYNE (S. of Baughman, Chester, Green, & Wayne Twps.) COS.	16.92	2.74
CHAMPAIGN & CLARK COS. & MADISON CO. (Twps. of Paint, Pike, Somerford, Stokes & Union)	14.99	2.39
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE & WARREN CO. (Rem. of Co.)		
Within 11 Mi. Radius of 3rd & Main Streets, Dayton	16.98	2.34
Beyond 11 Mi. Radius	17.21	2.35
COLUMBIANA (Twps. of Butler, Fairfield, Perry, Salem, & Unity), MAHONING (exclu. Milton & Smith Twps.), & TRUMBULL (Twps. of Hubbard & Liberty) COS.	17.67	3.03
COSHOCTON, GUERNSEY, KNOX (Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, and College Twps.), LICKING, MUSKINGUM, PERRY, TUSCARAWAS (S½ incl. Twps. of Auburn, Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry, & Bucks) COS.	15.30	2.51
CUYAHOGA, GEAUGA (Twps. of Bainbridge, Chester, & Russell), and LORAIN (Twp. of Columbia) COS.	18.38	2.77
FAYETTE, HIGHLAND, HOCKING, JACKSON (Rem. of Co.), PICKAWAY, PIKE, ROSS, & VINTON COS.:		
Electricians	17.30	1.58
Cable Splicers	18.60	1.62

MODIFICATION PAGE 3

DECISION NO. OH82-2035 (CONT'D)

	Basic Hourly Rates	Fringe Benefits
GEAUGA (except Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell, & Troy Twps.), & LAKE COS.:		
Electricians	17.93	2.42
Cable Splicers	18.18	2.43
LORAIN CO. (Rem. of Co.) & MEDINA CO. (Twps. of Litchfield & Liverpool) MEDINA (Rem. of Co.), PORTAGE (exclu. Twps. of Charleston, Edinburg, Freedom, Hiram, Palmyra, Paris, & Windham), SUMMIT, & WAYNE (Rem. of Co.) COS.:		
Electricians	17.65	2.70
Cable Splicers	17.00	2.87
	18.19	2.91
LINE CONSTRUCTION:		
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT, WYANDOT (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge & Salem) COS.:		
Linemen	16.67	1.28
Equipment Operators	15.00	1.23
Groundmen; Truck Drivers	10.96	1.08
ASHLAND, CRAWFORD, HURON (Twps. of Richmond, New Haven, Ripley & Greenwich), KNOX (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown & Jefferson), MARION, MORROW, RICHLAND, & WYANDOT (Twps. of Sycamore, Crane, Eden, Pitt, Antrim & Tymochtee) COS.:		
Equipment Operators; Linemen	16.65	2.28
Line Truck Driver	9.99	2.05
Groundmen	10.82	2.08
ASHTABULA (Twps. of Colebrook, Wayne, Williamsfield, Orwell, & Windsor), COLUMBIANA (Twps. of Butler, Fairfield, Perry, Salem, & Unity), GEAUGA (Twps. of Auburn, Middlefield, Parkman, Burton, & Troy), MAHONING (excl. Smith Twp.), PORTAGE (Charleston, Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris, Windom Twps.), & TRUMBULL COS.:		
Cable Splicers; Linemen; Operator - Pole digging Equipment	18.70	2.29
Groundmen	14.96	1.97
BROWN, CLERMONT, & HAMILTON COS.:		
ZONE I: Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	17.75	3.17
Groundmen	13.31	3.015
ZONE II: Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.05	3.18
Groundmen	13.61	3.03
ZONE III: Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.15	3.185
Groundmen	13.71	3.03
ZONE IV: Over 25 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.30	3.19
Groundmen	13.86	3.035
CARROLL (N. ½ incl. Fox, Harrison, Rose & Washington Twps.), COLUMBIANA (Knox Twp.), HOLMES, MAHONING (Smith Twp.), STARK, TUSCARAWAS (N. of Auburn, Clay, Rush, & York Twps.), & WAYNE (S. of Baughman, Chester, Green & Wayne Twps.) COS.:		
Cable Splicers	15.81	2.70
Linemen	16.92	2.74
Line Equipment Ops.	14.66	2.66
Groundmen; Truck Drivers	11.06	2.54

MODIFICATION PAGE 4

DECISION NO. OH82-2035 (CONT'D)

	Basic Hourly Rates	Fringe Benefits
CHAMPAIGN, CLARK, CUYAHOGA, GEAUGA (Bainbridge, Russell & Chester Twps.), LORAIN (Columbia Twp.), & MADISON (except Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant Twps.) COS.:		
Cable Splicers; Equipment Ops.; Linemen	19.83	1.39
Groundmen	12.89	1.15
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, WARREN (Wayne, Clear Creek, & Franklin Twps.), COS.:		
Cable Splicers; Linemen Operators:	16.98	2.49
Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	16.98	2.49
Line Truck with Winch or Pole & Steel Handling	12.74	2.345
None-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver	10.19	2.26
COSHOCTON, GUERNSEY, MUSKINGUM, PERRY, & TUSCARAWAS (Rem. of Co.) COS.:		
Cable Splicers; Equipment Ops.; Linemen	16.59	1.28
Groundmen	9.86	1.045
DELAWARE, MADISON, (Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range & Pleasant Twps.), PICKAWAY (Twps. of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenburg, Scioto, Walnut, & Washington), & UNION COS.:		
Cable Splicers; Equipment Ops. & Linemen	17.57	1.31
Groundmen	9.86	1.045
FAIRFIELD, KNOX (Butler, Clay, College, Harrison, Hilliar, Jackson, Morgan, Milford, Miller, & Pleasant), & LICKING COS.:		
Cable Splicers; Linemen; Operators; All Mechanized Equipment	15.75	1.25
Groundmen - Truck Driver	12.49	1.14
Groundmen	9.63	1.04
FAYETTE, HIGHLAND, HOCKING, JACKSON (Coal, Jackson, Liberty, Milton, & Washington Twps.), PICKAWAY (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), PIKE (Excl. Camp Creek, Marion, Newton, Scioto, Sunfish, & Union Twps.), ROSS, VINTON (W ½ of Co., incl. Clinton, Elk & Swan Twps.) COS.:		
Cable Splicers	18.60	1.65
Linemen; Equipment Op.	17.30	1.605
Truck Drivers	10.33	1.36
Groundmen	9.87	1.345
FRANKLIN COUNTY:		
Cable Splicers; Linemen	15.08	1.23
Equipment Operators	13.18	1.16
Groundmen	9.86	1.045
GEAUGA (Excl. Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman & Troy Twps.), & LAKE COS.:		
Cable Splicers; Equipment Ops. & Linemen	17.93	2.98
Truck Drivers (Winch) Groundman; Groundman	11.65	2.76
MEDINA (Brunswick, Chatham, Granger, Guilford, Harrisville, Hinckley, Homer, Lafayette, Medina, Montville, Sharon, Spencer, Wadsworth, Westfield, & York Twps.), PORTAGE (Atwater, Aurora, Brimfield, Deerfield,		

DECISION NO. OH82-2035 (CONT'D)

	Basic Hourly Rates	Fringe Benefits
Franklin, Mantus, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro & Suffield Twps.), SUMMIT, & WAYNE (Northern ½ of Co.) COS.:		
Linemen	17.00	2.925
Cable Splicers	18.19	2.97
Equipment Operators	12.75	2.78
Truck Drivers; Groundman	8.50	2.63
MONROE, MORGAN, NOBLE, & WASHINGTON COUNTIES:		
Cable Splicers; Equipment Operators; Linemen	16.59	1.18
Groundmen	9.86	.945

Basic Hourly Rates	Fringe Benefits

DECISION NO. OH82-2036 - MOD. #1 (47 FR 19909 - May 7, 1982)

	Basic Hourly Rates	Fringe Benefits
ADAMS, ALLEN, ASHLAND, AUGLAIZE, BELMONT, BROWN, BUTLER, CARROLL, CHAMPAIGN, CLARK, CLERMONT, CLINTON, COLUMBIANA, COSHOCTON, CRAWFORD, DARKE, DEFIANCE, DELAWARE, ERIE, FAIRFIELD, FAYETTE, FRANKLIN, FULTON, GALLIA, GEAUGA, GREENE, GUERNSEY, HAMILTON, HANCOCK, HARDIN, HARRISON, HENRY, HIGHLAND, HOCKING, HOLMES, HURON, JACKSON, JEFFERSON, KNOX, LAWRENCE, LICKING, LOGAN, MADISON, MARION, MEDINA, MEIGS, MERCER, MIAMI, MONROE, MONTGOMERY, MORGAN, MORROW, MUSKINGUM, NOBLE, OTTAWA, PAULDING, PERRY, PICKAWAY, PIKE, PREBLE, PUTNAM, RICHLAND, ROSS, SANDUSKY, SCIOTO, SENECA, SHELBY, TUSCARAWAS, UNION, VAN WERT, VINTON, WARREN, WASHINGTON, WAYNE, WILLIAMS, WOOD & WYANDOT COUNTIES, OHIO		
Change:		
Electricians:		
ADAMS, JACKSON (Bloomfield, Franklin, Hamilton, Jefferson, Lick, Madison & Scioto Twps.), PIKE (Camp Creek, Marion, Newton, Scioto, & Sunfish), & SCIOTO COS.	17.03	3.32
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT, WYANDOT (Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge & Salem Twps.) COS.	16.25	2.51
ASHLAND, CRAWFORD, HURON (New Haven, Richmond, Ripley & Greenwich Twps.), KNOX (Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown & Jefferson Twps.), MARION, MORROW, RICHLAND & WYANDOT (Sycamore, Crane, Eden, Pitt & Antrim Twps.) COS.	16.65	2.22
BROWN, CLERMONT, & HAMILTON COS.:		
Up to & Incl. 18 mi. radius of Hamilton Co. Court House Cincinnati	17.75	3.17
Over 18 mi. radius up to & Incl. 21. mi. radius of Hamilton Co. Court House, Cincinnati	18.05	3.18
Over 21. mi. radius up to & Incl. 25 mi. radius of Hamilton Co. Court House, Cincinnati	18.15	3.185
Over 25 mi. radius of Hamilton Co. Court House, Cincinnati	18.30	3.19
CARROLL (N½ incl. Fox, Harrison, Rose & Washington Twps.) COLUMBIANA (Knox Twp.), HOLMES, TUSCARAWAS (N of. Auburn, Clay, Rush, & York Twps.), & WAYNE (S. of Baughman, Chester, Green & Wayne Twps.) COS.	16.92	2.74
CHAMPAIGN, CLARK, & MADISON (Pike, Paint, Somerford, Union, & Stokes Twps.) COS.	14.99	2.39
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & WARREN (Twps. of Wayne, Clear Creek, & Franklin Twps.) COS.:		
Electrical Communications Installers within 11 mi. radius of 3rd & Main Street, Dayton	16.98	2.34
Electrical Communications Installers beyond 11 mi. radius of 3rd & Main Street, Dayton	17.21	2.35

MODIFICATION PAGE 7

DECISION NO. OH82-2036 (CONT'D)	Basic Hourly Rates	Fringe Benefits
COLUMBIANA (Butler, Fairfield, Perry, Salem, & Unity Twps.) CO, COSHOCTON, GUERNSEY, KNOX (Clay, Jackson, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, & College Twps.), LICKING, MUSKINGUM, PERRY, & TUSCARAWAS (Auburn, York, Jefferson, Clay, Rush, Oxford, Washington, Salem, Perry & Bucks Twps.) COS.	17.67	3.03
FAYETTE, HIGHLAND, HOCKING, JACKSON (Coal, Jackson, Liberty, Milton, & Washington Twps.), PICKAWAY (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), PIKE (Except Camp Creek, Marion, Newton, Scioto, Sunfish & Union Twps.) ROSS & VINTON (Clinton, Eagle, Elk, Harrison, Jackson, Richland, & Swan Twps.) COS.	15.30	2.51
GEAUGA (Russell, Chester, & Bainbridge Twps.) CO.	17.30	1.58
GEAUGA (Auburn, Middlefield, Parkman & Troy Twps.) CO.	18.38	2.77
GEAUGA (Rem of Co.) CO.	18.23	2.77
MEDINA (Litchfield, & Liverpool Twps.) CO.	17.93	2.42
MEDINA (Rem. of Co.) & WAYNE (N½) COS.	17.65	2.70
MEIGS, MONROE, MORGAN, NOBLE, VINTON (Brown, Knox, Madison, Vinton, & Wilkesville Twps.), & WASHINGTON COS.	17.00	2.87
	16.25	4.56

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT, & WYANDOT (Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge & Salem Twps.) COS.:		
Linemen	16.67	1.28
Equipment Operators	15.00	1.23
Groundmen; Truck Drivers	10.96	1.08
ASHLAND, CRAWFORD, HURON, (New Haven, Richmond, Ripley & Greenwich Twps.), KNOX (Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson Twps.), MARION, MORROW, RICHLAND, & WYANDOT (Sycamore, Crane, Eden, Pitt, Antrim & Tymochtee Twps.) COS.:		
Equipment Operators; Linemen	16.65	2.28
Line Truck Driver	9.99	2.05
Groundmen	10.82	2.08
BROWN, CLERMONT, & HAMILTON COS.:		
ZONE I: Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	17.75	3.17
Groundmen	13.31	3.015
ZONE II: Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.05	3.18
Groundmen	13.61	3.03
ZONE III: Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.15	3.185
Groundmen	13.71	3.03

MODIFICATION PAGE 8

DECISION NO. OH82-2036 (CONT'D)	Basic Hourly Rates	Fringe Benefits
ZONE IV: Over 25 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.30	3.19
Groundmen	13.86	3.035
CARROLL (N ½ Incl. Fox, Harrison, Rose & Washington Twps.), COLUMBIANA (Knox Twp.), HOLMES, TUSCARAWAS (N. of Auburn, Clay, Rush, & York Twps.), & WAYNE (S. of Baughman, Chester, Greene & Wayne Twps.) COS.:		
Cable Splicers	15.81	2.70
Line Equipment Ops.	14.66	2.66
Groundmen; Truck Drivers	11.06	2.54
Linemen	16.92	2.74
CHAMPAIGN, CLARK, GEAUGA, (Bainbridge, Russell & Chester Twps.), & MADISON (except Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant Twps.) COS.:		
Cable Splicers; Equipment Ops.; Linemen	19.83	1.39
Groundmen	12.89	1.15
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & WARREN (Wayne, Clear Creek, & Franklin Twps.), COS.:		
Cable Splicers; Linemen Operators:	16.98	2.49
Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	16.98	2.49
Line Truck with Winch or Pole & Steel Handling	12.74	2.345
Non-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver	10.19	2.26

COSHOCTON, GUERNSEY, MUSKINGUM, PERRY, & TUSCARAWAS (Rem. of Co.) COS.:	Basic Hourly Rates	Fringe Benefits
Cable Splicers; Equipment Op., Linemen	16.59	1.28
Groundmen	9.86	1.045
DELAWARE, MADISON (Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range & Pleasant Twps.), PICKAWAY (Twps. of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenburg, Scioto, Walnut, & Washington), & UNION COS.:		
Cable Splicers; Equipment Ops., & Linemen	17.57	1.31
Groundmen	9.86	1.045
FAIRFIELD, KNOX (Butler, College, Clay, Harrison, Hilliard, Jackson, Morgan, Milford, Miller, & Pleasant Twps.), & LICKING COS.:		
Cable Splicers; Linemen; Ops.; All Mechanized Equipment	15.75	1.25
Groundmen - Truck Driver	12.49	1.14
Groundmen	9.63	1.04
FAYETTE, HIGHLAND, HOCKING, JACKSON (Coal, Jackson, Liberty, Milton, & Washington Twps.), PICKAWAY (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), PIKE (Excluding Camp Creek, Marion, Newton, Scioto, Sunfish, & Union Twps.) ROSS, & VINTON (Clinton, Eagle, Elk, Harrison, Jackson, Richland, & Swan Twps.) COS.:		
Cable Splicers	18.60	1.65
Linemen; Equipment Operators	17.30	1.605
Truck Drivers	10.33	1.36
Groundmen	9.87	1.345
FRANKLIN CO.:		
Cable Splicers; Linemen	15.08	1.23
Operators	13.18	1.16
Groundmen	9.86	1.045

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DECISION NO. OH82-2036 (CONT'D)	Basic Hourly Rates	Fringe Benefits
GEAUGA (Exclu. Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman & Troy Twps.) CO.:		
Cable Splicers; Equipment Ops. & Linemen	17.93	2.98
Truck Drivers (Winch) Groundman; Groundman	11.65	2.76
MEDINA (Brunswick, Chatham, Granger, Guilford, Harrisville, Hinckley, Homer, Lafayette, Medina, Montville, Sharon, Spencer, Wadsworth, Westfield, & York Twps.), & WAYNE (Northern ½ of Co.) COS.:		
Linemen	17.00	2.925
Cable Splicers	18.19	2.97
Equipment Operators	12.75	2.78
Truck Drivers; Groundman	8.50	2.63
MONROE, MORGAN, NOBLE, & WASHINGTON COS.:		
Cable Splicers; Linemen; & Equipment Operators	16.59	1.18
Groundmen	9.86	.945

Basic Hourly Rates	Fringe Benefits

MODIFICATION PAGE 10

DECISION NO. TX82-4001 - MOD. #5 (47 FR 4463 - 1/29/82) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Zone 2 - Electricians	$13.80	.80+ 3-1/10%
Cable splicer	14.05	"
Laborers:		
Group 1	7.77	1.18
Group 2	7.92	1.18

DECISION NO. TX82-4002 - MOD. #4 (47 FR 2472 - 1/15/82) Wichita County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Electricians	13.80	.80+ 3-1/10%
Cable splicers	14.05	"
Power equipment operators:		
Group 1	11.825	1.425
Group 2	12.725	1.425
Group 3	13.125	1.425

DECISION NO. TX82-4024 - MOD. #2 (47 FR 26548 - 6/18/82) Travis County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Cement masons	13.34	1.30
Elevator constructors:		
Mechanics	14.40	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
Marble, tile & terrazzo finishers:		
Marble, tile & terrazzo finishers	8.62	.67
Floor machine ops.	8.82	.67
Base machine ops.	8.97	.67

DECISION NO. TX82-4026 - MOD. #2 (47 FR 26547 - 6/18/82) Lubbock County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Plumbers & steamfitters	$13.80	1.34
Power equipment ops.:		
Group 1	11.825	1.425
Group 2	12.725	1.425
Group 3	13.125	1.425

DECISION NO. TX82-4027 - MOD. #2 (47 FR 26551 - 6/18/82) Bexar County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Marble, tile & terrazzo finishers:		
Marble, tile & terrazzo finishers	8.62	.67
Floor machine ops.	8.82	.67
Base machine ops.	8.97	.67

DECISION NO. TX82-4029 - MOD. #2 (47 FR 26552 - 6/18/82) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Building Construction:		
Cement masons	13.34	1.30

DECISION NO. MN81-2042 - MOD. #1
(46 FR 38250 - July 24, 1981)
Anoka, Benton, Blue Earth, Carlton, Carver, Chisago, Cook, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Lake, LeSueur, Mower, Nicollet, Olmsted, Ramsey, Rice, St. Louis, Scott, Sherburne, Sibley, Stearns, Steele, Wabasha, Waseca, Washington, Winona, & Wright Counties, Minnesota

Add:
Counties: Carver & Fillmore

DECISION NO. UT81-5156 - Mod. #8
(46 FR 48870 - October 2, 1981)
Statewide, Utah

Change:	Basic Hourly Rates	Fringe Benefits
Power Equipment Operators:		
Heavy and Highway Construction:		
Area 1:		
Group 1	$14.01	$5.77
Group 2	14.36	5.77
Group 3	14.54	5.77
Group 4	14.65	5.77
Group 5	15.11	5.77
Group 6	15.26	5.77
Group 6-A	15.37	5.77
Group 7	15.67	5.77
Group 7-A	15.73	5.77
Group 8	15.79	5.77
Group 9	15.95	5.77
Group 10	16.39	5.77
Group 10-A	17.35	5.77
Group 10-B	17.80	5.77
Group 11	17.96	5.77
Area 2:		
Group 1	16.51	5.77
Group 2	16.86	5.77
Group 3	17.04	5.77
Group 4	17.15	5.77
Group 5	17.61	5.77
Group 6	17.76	5.77
Group 6-A	17.87	5.77
Group 7	18.17	5.77
Group 7-A	18.23	5.77
Group 8	18.29	5.77
Group 9	18.45	5.77
Group 10	18.89	5.77
Group 10-A	19.85	5.77
Group 10-B	20.30	5.77
Group 11	20.46	5.77

UT81-5156 (Cont'd):

	Basic Hourly Rates	Fringe Benefits
Steel Erection:		
Group 1	$14.67	$5.37
Group 2	15.17	5.37
Group 3	16.55	5.37
Group 4	16.73	5.37
Group 4-A	17.15	5.37
Group 5	17.82	5.37
Group 6	18.39	5.37
Group 7	18.80	5.37
Group 8	19.19	5.37
Group 9	20.59	5.37
Piledriving:		
Group 1	14.04	5.37
Group 1-A	14.50	5.37
Group 1-B	14.77	5.37
Group 2-A	14.77	5.37
Group 2-B	15.50	5.37
Group 2-C	15.78	5.37
Group 2-D	15.98	5.37
Group 3	16.18	5.37
Group 3-A	16.76	5.37
Group 4	17.49	5.37
Group 5	17.73	5.37
Group 6	19.25	5.37

DECISION NO. WY82-5106 - Mod. #1
(47 FR 10968-March 12, 1982)
Converse, Goshen, Laramie, Natrona, Niobrara and Platte Counties, Wyoming

Change:	Basic Hourly Rates	Fringe Benefits
Electricians: (Area 1):		
Electricians:		
Technicians	$15.90	3-3/4% +1.50

STATES: GEORGIA, NORTH CAROLINA, SOUTH CAROLINA, VIRGINIA, & WASHINGTON, D.C., AND IN FLORIDA, ALL COUNTIES ON THE ATLANTIC COAST AND THE GULF COAST WEST TO THE AUCILLA RIVER AND ALL TRIBUTARY WATERWAYS.
DECISION NUMBER: GA82-1038 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA82-2041, dated June 25, 1982, in 47 FR 27685.
DESCRIPTION OF WORK: DREDGING PROJECTS

	Basic Hourly Rates	Fringe Benefits
HYDRAULIC DREDGES 20" & OVER:		
Leverman	$10.58	1.63+a
Engineer	10.47	"
Mate	9.50	"
Welder	9.79	"
Derrick Operator	10.12	"
Spill & Spider Barge Operator	9.92	"
Tug Master	9.43	"
Carpenter	10.06	"
Tug Mate	9.04	"
Electrician	10.28	"
Machinist	9.98	"
Steward	8.33	"
Oiler & Fireman	8.09	"
Deckhand & Tug Deckhand	7.62	"
Shoreman & Messman	7.49	"
Second Cook	7.62	"
HYDRAULIC DREDGES UNDER 20" FOR D.C., FL., & VA. ONLY:		
Leverman	9.73	1.63+a
Engineer	9.29	"
Welder	9.43	"
Mate	8.48	"
Oiler & Fireman	8.01	"
Deckhand	7.62	"
Launchman	8.09	"
Shoreman	7.49	"
Spill & Spider Barge Operator	8.68	"
HYDRAULIC DREDGES UNDER 20" FOR GA., N.C., & S.C. ONLY:		
Leverman	8.93	1.43+a
Engineer	8.52	"
Welder	8.65	"
Mate	7.78	"
Oiler & Fireman	7.35	"
Deckhand	6.99	"
Launchman	7.42	"
Shoreman	6.87	"
Spill & Spider Barge Operator	7.96	"
CLAMSHELL DREDGES:		
Operator	10.51	1.63+a
Engineer	9.95	"
Welder	9.67	"
Mate	9.33	"
Fireman & Oiler & Launchman	8.09	"
Deckhand	7.62	"
Scowman	7.73	"

	Basic Hourly Rates	Fringe Benefits
DIPPER DREDGES:		
Operator	$10.62	1.63+a
Crane man	10.16	"
Engineer	10.37	"
Welder	9.79	"
Mate	9.50	"
Fireman & Oiler	8.09	"
Deckhand	7.62	"
Tug Master	9.59	"
Tug Mate	9.12	"
Scowman	7.73	"
TUGS (TENDING DIPPER & CLAMSHELL DREDGES):		
Tug Master & Engineer	9.59	1.63+a
Tug Mate	9.12	"
Assistant Engineer	8.95	"
Deckhand	7.52	"
Cook	7.73	"
STEWARD DEPARTMENT ON DIPPER & CLAMSHELL DREDGES & IN D.C., FL. & VA. ONLY ON HYDRAULIC DREDGES 20" & UNDER:		
Cook	8.01	1.63+a
Mess Cook	7.56	"
Messman & Janitor	7.46	"
STEWARD DEPARTMENT ON HYDRAULIC DREDGES UNDER 20" IN GA., N.C., & S.C. ONLY:		
Cook	7.35	1.43+a
Mess Cook	6.94	"
Messman & Janitor	6.84	"
DRILL BOATS:		
Driller, Blaster, & Operator		
Engineer	10.47	1.63+a
Helper	8.09	"

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

FOOTNOTE:
a. Six Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day: Plus Vacation Contribution of 7% of straight time pay.

SUPERSEDEAS DECISION

STATE: Nebraska

COUNTIES: Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridian, Sioux

DECISION NO: NE82-4040

DATE: Date of Publication

Supersedeas Decision No. NE80-4058 dated July 18, 1980, in 45FR 48425

DESCRIPTION OF WORK: BUILDING PROJECTS, (excluding single family homes and apartments up to and including four (4) stories).

	Basic Hourly Rates	Fringe Benefits
Bricklayers	$13.15	
Carpenters	7.53	
Cement Masons	7.00	
Electricians	8.88	
Glaziers	7.42	
Ironworkers	6.71	
Laborers:		
General Laborers	5.37	
Painters	8.50	
Plumbers	9.80	
Roofers	6.00	
Sheet Metal Workers	9.80	
Welders-receive rate prescribed for craft performing operation to which welding is incidental.		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Nevada

COUNTY: Clark County (does not include the Nevada Test Site)

DECISION NUMBER: NV82-5113

DATE: Date of Publication

Supersedes Decision Number NV81-5102 dated February 6, 1981 in 47 FR 11482

DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$20.26	$2.80
BOILERMAKERS	20.01	3.59
BRICKLAYERS: Stonemasons	16.59	1.86
CARPENTERS:		
Carpenters	15.31	2.75
Drywall Installer	15.48	2.30
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	15.46	2.75
Lathers	15.48	2.75
Millwrights	16.31	2.75
Piledrivermen	15.51	2.75
CEMENT MASONS:		
Cement Masons	14.50	3.13
Cement Floor Finishing Machine; Color Work	14.85	3.13
ELECTRICIANS:		
Electricians; Technicians	19.93	3%+4.54
Cable Splicers	20.26	3%+5.54
ELEVATOR CONSTRUCTORS	18.67	a+2.465
ELEVATOR CONSTRUCTORS' HELPERS	13.07	a+2.465
ELEVATOR CONSTRUCTORS' HELPERS (Prob.)	9.335	
GLAZIERS	9.00	1.23
IRONWORKERS:		
Fence Erectors Ornamental; Reinforcing; Structural	17.40	5.33
	18.29	5.33
MARBLE SETTERS	16.59	1.86
MARBLE, TERRAZZO, TILE FINISHERS	12.90	1.80
MASON TENDERS	13.87	2.58
PAINTERS:		
Brush; Roller	17.34	1.56
Paperhangers; Spray; Steel; Swing Stage; Sandblaster; Tapers	17.69	1.56
PLASTER TENDERS	15.42	2.75
PLASTERERS	15.12	3.13
PLUMBERS; Steamfitters	21.25	3.83
ROOFERS	21.40	1.00
SHEET METAL WORKERS	20.22	3.31
SOFT FLOOR LAYERS	17.12	1.90
SPRINKLER FITTERS	21.32	2.83
TERRAZZO WORKERS; TILE SETTERS	16.59	1.86

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Group 1	$12.75	$2.79
Group 2	12.96	2.79
Group 3	13.06	2.79
Group 4	13.15	2.79
Group 5	13.25	2.79
POWER EQUIPMENT OPERATORS: (Except Piledriving and Steel Erection):		
Group 1	16.65	6.01
Group 2	16.93	6.01
Group 3	17.22	6.01
Group 4	17.36	6.01
Group 5	17.58	6.01
Group 6	17.69	6.01
Group 7	17.81	6.01
Group 8	17.98	6.01
Group 9	18.11	6.01
TRUCK DRIVERS:		
Group 1	12.78	2.07
Group 2	12.89	2.07
Group 3	12.94	2.07
Group 4	13.10	2.07
Group 5	13.28	2.07
Group 6	13.78	2.07
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental		

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A thru. G.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving; G-Christmas Day

LABORERS

Group 1: Cutting Torch Operator (demolition); Dry Packing of concrete and filling of Form-bolt Holes; Fine Grader, highway and street paving, airport runways and similar type heavy construction; Spotter, Debris Handler, and Dumpman; Gas and oil Pipeline Laborer; Guinea Chaser; Laborer, demolition (cleaning of bricks, lumber, etc.); Laborer, general or construction; Laborer, packing rod steel and pans; Laborer, temporary water lines (portable type); Landscape Gardener and Nurseryman; Tarman and Mortarman, Kettleman, Potman and Man applying asphalt, Lay-kold creosote, lime and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Underground Laborer, including Caisson Bellowers; Window cleaner

Group 2: Asphalt Raker, Ironer, Spreader, Luteman; Buggymobile Man; Cement Dumper (on one yard or larger mixers and handling bulk cement); Cesspool Digger and Installer; Chucktender (except tunnels); Concrete Core Cutter; Concrete Curer, Impervious Membrane and Oiler of all materials; Concrete Saw Man, excluding tractor type, cutting, scoring old or new concrete; Gas and oil Pipeline Wrapper, Pot Tender and Form Man; Making and Caulking of all non-metallic Pipe Joints; Operators and Tenders of pneumatic and electric tools, Vibrating Machines, hand propelled Trenching Machines, Impact Wrench multiplate and similar mechanical tools not separately classified herein; Operator of cement grinding machine; Riprap Stonepaver; Roto-scraper; Sandblaster (Pot Tender); Scaler; Septic Tank Digger and Installer (Lead Man); Tank Scaler and Cleaner; Tree Climber, Faller, Chain Saw Operator, Pittsburgh Chipper and similar type Brush Shredders

Group 3: Gas and oil Pipeline Wrapper, 6 in. pipe and over; Jackhammer and/or Pavement Breaker; Laying of all non-metallic pipe, including sewer pipe, drain pipe and underground tile; Oversize Concrete Vibrator Operator, 70 lbs. and over; Rock Slinger; Scaler (using Bos'n Chair or Safety Belt or power tools)

Group 4: Cribber or Shorer, Lagging, Sheeting, Trench Bracing, hand guided Lagging Hammer; Head Rock Slinger; Powderman - Blaster, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Sandblaster (Nozzleman); Steel Headerboard Man

Group 5: Driller (Core, Diamond or Wagon), Joy Driller Model TW-M-2A, Gardner-Denver Model DH 143 and similar type Drills

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Brakeman; Compressor Operator; Engineer Oiler; Generator Operator; Heavy Duty Repairman Tender; Pump; Signalman; Switchman

Group 2: Concrete Mixer Operator, skip type; Conveyor Operator; Fireman; Hydrostatic Pump Operator; Oiler, Crusher (asphalt or concrete plant); Plant Operator, generator, pump or compressor; Rotary Drill Tender (oilfield); Skiploader - wheel type up to 3/4 yd. with attachment; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant Operator; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power driven Jumbo Form Setter; Ross Carrier; Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (asphalt or concrete); Bridge type Unloader and Turntable Operator; Chip Spreading Machine; Concrete Pump (small portable); Dinky Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (grease truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-hammer-Aero Stomper; Power Sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching Machine (up to 6 ft.)

Group 5: Asphalt Plant Engineer; Concrete Batch Plant; Backhoe (up to and including 3/4 yds.); Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Forklift (under 5 ton capacity); Machine Tool; Maginnis Internal Full Slab Vibrator; Mechanical Berm (curb or gutter concrete or asphalt); Mechanical Finisher (concrete-Clary-Johnson-Bidwell or similar); Pavement Breaker; Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment, (single engine, up to and including 25 yds. struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive (over 10 and up to and including 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Crawler and wheel type (over 3/4 yds. and up to and including 1½ yds.); Tractor-Bulldozer, Tamper, Scraper (single engine, up to 100 HP, Flywheel and similar types, up to and including D-5 and similar types)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); BHL Lima Road Pactor or similar; Bridge Crane; Pipe Laying Machine (cast in place); Combination Mixer and Compressor (Gunite work); Concrete Pump (truck mounted); Concrete Mixer; Crane (up to and including 25 tons); Crushing Plant; Elevating Grader; Forklift (over 5 tons); Grade Checker; Gradeall; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine (Vagtborg and similar types); Lift Mobile; Loader-Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine (1/4 yd. - rubber-tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding Caisson type); Rubber-tired Earth Moving Equipment Operator (single engine - Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); Rubber-tired Scraper (self-loading - paddle wheel type-John Deere, 1040 and similar single unit); Skiploader (Crawler and wheel type, over 1½ yds. up to and including 6½ yds.); Surface Heaters and Planers; Rubber-tired Earth Moving Equipment, multiple engine (up to and including 25 yds. struck); Trenching Machine (over 6 ft. depth capacity, manufacturer's rating); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5 100 flywheel HP and over or similar)(Bulldozer, Tamper, Scraper and Push Tractor single engine); Tractor (boom attachments); Traveling Pipe Wrapping, Cleaning and Bending; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. and up to 5 cu. yds. M.R.C.)

Group 7: Crane (over 25 tons up to and including 100 tons M.R.C.); Derrick Barge, Dual Drum Mixer; Hoist, Stiff Legs, Guy Derrick or similar type, up to and including 100 tons; Monorail Locomotive (diesel, gas or electric); Motor Patrol-blade Operator (single engine); Multiple engine tractor Operator (Euclid and similar type except Quad 9 Cat); Rubber-tired Earth Moving Equipment (single engine, over 50 yds. struck); Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpillar and similar)(over 25 yds. and up to 50 cu. yds. struck); Tractor Loader Operator (Crawler and wheel type over 6½ yds.); Tower Crane Repairman; Shovel, Backhoe, Dragline, Clamshell Operator (over 5 cu. yds. M.R.C.); Woods Mixer and similar Pugmill Equipment; Heavy Duty Repairman - Welder Combination

Group 8: Auto Grader; Automatic Slip Form; Crane (over 100 tons); Hoist Stiff Legs, Guy Derricks or similar types (capable of hoisting 100 tons or more); Mass Excavator (less than 750 cu. yds.); Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol (multi engine); Pipe Mobile Machine; Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber-tired self-loading Scraper (Paddle Wheel-Auger type self-loading) (2 or more units); Tandem Equipment (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine; Rubber-tired Scraper (pushing without Push Cat, Push-pull) (50¢ per hour additonal)

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Wheel Excavator (over 750 cu. yds.); Remote controlled Earth Moving Equipment ($1.00 per hour additonal to base rate)

TRUCK DRIVERS

Group 1: Dump Trucks (less than 12 yds.); Trucks (legal payload capacity less than 15 tons); Water and Fuel Trucks (under 2500 gallons); Pickups; Service; Repairman Tender; Drivers of busses (on jobsite used for transportation of up to 25 passengers); Teamster equipment (highest rate for dual craft operation)

Group 2: Dump Trucks (12 yds. but less than 16 yds.); Trucks (legal payload capacity between 15 and 20 tons); Water and Fuel Trucks (2500 gallons to 4000 gallons); Truck Driver working on gas and oil Pipeline (including Winch Truck and all sizes of trucks); Truck Greaser and Tireman; Drivers of busses (on jobsite used for transportation of more than 25 passengers); Bootman

Group 3: Dumpcrete (less than 6½ yds.); Transit-mix (less than 3 yds.); Warehouse Clerk

Group 4: Dump Trucks (16 yds. up to and including 22 yds.); Trucks (legal payload capacity 20 tons but less than 30 tons); Water and Fuel Trucks (4000 gallons but less than 6000 gallons); Dumpcrete (6½ yds. and over); Transit-mix (3 yds. but less than 6 yds.); Euclid-type Spreader Trucks; Dumpster; Fork Lift; Ross Carrier - highway; Road Oil Spreading Truck, time spent spreading oil

Group 5: Dump trucks (over 22 yds.); Trucks (legal payload capacity 20 tons and over); Water and Fuel Trucks (6000 gallons and over); Transit-mix (6 yds. and over); Truck Repairman

Group 6: D.W. and similar-type equipment, D.W. 10 and D.W. 20; Euclid-type equipment, LeTourneau Pulls, Terra Cobras and similar types of equipment; also PB and similar-type trucks when performing work within teamster jurisdiction, regardless of types of attachment including power units pulling off highway Belly Dumps in Tandem

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Nevada

COUNTIES: Statewide (does not include the Nevada Test Site and Tonopah Test Range, and Highway Construction in Douglas County), Nevada

DECISION NUMBER: NV82-5116

DATE: Date of Publication

Supersedes Decision No. NV81-5152 dated September 18, 1981 in 46 FR 46505

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area 1	$20.26	$2.80
Area 2	16.11	2.29
Area 3	24.86	2.81
BOILERMAKERS	20.01	3.59
BRICKLAYERS; STONEMASONS:		
Area 1	16.59	1.86
Area 2	16.32	1.95
BRICK HOD CARRIERS:		
Area 1	13.51	2.60
CARPENTERS:		
Area 1:		
Carpenters	15.31	2.75
Drywall Installer	15.48	2.75
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	15.46	2.75
Lathers	15.48	2.75
Millwrights	16.31	2.75
Piledrivermen	15.51	2.75
Area 2:		
Carpenters	15.30	4.97
Drywall Installer	15.55	4.97
Floor Layers; Patent Scaffold Erectors; Power Saw Operators; Shingler	15.45	4.97
Millwrights	15.90	4.97
Piledrivermen	15.55	4.97
CEMENT MASONS:		
Area 1:		
Cement Masons	14.50	3.13
Cement Floor Finishing Machine and Color Work	14.85	3.13
Area 2:		
Cement Masons	13.80	4.70
Mastic, Magnesite and all composition Masons	14.05	4.70
Troweling Machine; Grinder Operator and Kelly Float	14.30	4.70
Area 3:		
Cement Masons	15.55	4.70
Mastic, Magnesite and all Composition Masons	15.80	4.70
Troweling Machine; Grinder Operator and Kelly Float	16.05	4.70

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS:		
Area 1:		
Electricians; Technicians	$19.93	3%+4.54
Cable Splicers	20.26	3%+4.54
Area 2:		
Electricians; Technicians	21.28	3%+3.32
Cable Splicers	23.41	3%+3.32
Area 3:		
Electricians; Technicians	22.78	3%+3.32
Cable Splicers	24.91	3%+3.32
ELEVATOR CONSTRUCTORS:		
Area 1:		
Mechanics	18.67	a+2.465
Helpers	13.07	a+2.465
Probationary Helpers	9.335	
Area 2:		
Mechanics	24.22	a+2.465
Helpers	16.95	a+2.465
Probationary Helpers	12.11	
GLAZIERS:		
Area 1	21.54	1.23
Area 2	15.88	6.32
IRONWORKERS:		
Area 1:		
Fence Erectors; Machinery Movers; Ornamental; Reinforcing; Rigger; Structural	14.25	2.75
Area 2:		
Fence Erector	17.40	5.33
Ornamental; Reinforcing; Structural	18.29	5.33
LATHERS:		
Area 1	18.07	.01
LINE CONSTRUCTION WORKERS:		
Area 1:		
Groundman	14.67	B-3/4%+ 2.06
Line equipment Operator	17.60	B-3/4%+ 2.06
Linemen	19.56	B-3/4%+ 2.06
Cable Splicers	20.54	B-3/4%+ 2.06

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	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION WORKERS: (Cont'd)		
Area 2:		
Groundman	$15.96	3%+3.18
Line Equipment Operators	19.15	3%+3.18
Lineman; Technician	21.28	3%+3.18
Cable Splicers	23.41	3%+3.18
Area 3:		
Groundman	17.46	3%+3.18
Line Equipment Operators	20.65	3%+3.18
Linemen; Technician	22.78	3%+3.18
Cable Splicers	24.91	3%+3.18
MARBLE SETTERS:		
Area 1	16.59	1.86
Area 2	15.04	1.92
MARBLE, TERRAZZO, and TILE FINISHERS:		
Area 1	12.90	1.80
Area 2	8.83	1.92
MASON TENDERS:		
Area 1	13.87	2.58
PAINTERS:		
Area 1:		
Brush; Roller	17.34	1.56
Paperhangers; Spray; Steel; Swing Stage; Sandblasters; Sign; Structural Steel; Taper	17.69	1.56
Buffing Steel; Sandblaster, Structural Steel	18.04	1.56
Steeplejack	19.09	1.56
Area 2:		
Brush and Roller	16.95	1.95
Spray; Taper; Paperhangers; Sandblaster	17.45	1.95
Spray, Swing Stage up to 40 ft.; Spray, steel	17.70	1.95
Brush, Swing Stage up to 40 ft.; Brush, steel	17.20	1.95
PLASTER HOD CARRIERS:		
Area 1:		
Plaster Hod Carrier serving Plasterers	14.70	2.50
Plaster Hod Carrier working on any type of gun except TM-30	15.30	2.50
Plaster Hod Carrier mixing on TM-30 machine	15.55	2.50
PLASTER TENDERS:		
Area 1	15.42	2.75
PLASTERERS:		
Area 1	15.12	3.13
Area 2	15.22	2.96

	Basic Hourly Rates	Fringe Benefits
PLUMBERS; Steamfitters:		
Area 1	$21.25	$3.83
Area 2	18.24	4.78
PLUMBERS (Utility):		
Area 1	18.24	4.78
ROOFERS:		
Area 1	21.40	1.00
Area 2	20.50	2.32
SHEET METAL WORKERS:		
Area 1	20.22	3.31
Area 2	16.57	5.46
SOFT FLOOR LAYERS:		
Area 1	17.12	1.90
Area 2	15.94	1.74
SPRINKLER FITTERS	21.32	2.83
TERRAZZO WORKERS; TILE SETTERS:		
Area 1	16.59	1.86
Area 2	15.04	1.92
LABORERS:		
Clark, Esmeralda, and Lincoln Counties; Nye County (south half, including Highway #6):		
Group 1	12.75	2.79
Group 2	12.96	2.79
Group 3	13.06	2.79
Group 4	13.15	2.79
Group 5	13.25	2.79
Remaining Counties:		
Group 1	12.41	2.60
Group 2	12.51	2.60
Group 3	12.66	2.60
Group 4	12.91	2.60
Group 5	13.21	2.60
Group 6-A	13.21	2.60
Group 6-B	12.91	2.60
Group 6-C	12.56	2.60
POWER EQUIPMENT OPERATORS: Clark, Esmeralda, Lincoln, and Nye Counties:		
Group 1	16.65	6.01
Group 2	16.93	6.01
Group 3	17.22	6.01
Group 4	17.36	6.01
Group 5	17.58	6.01
Group 6	17.69	6.01
Group 7	17.81	6.01
Group 8	17.98	6.01
Group 9	18.11	6.01

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	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd) (Except Piledriving and Steel Erection):		
Remaining Counties:		
Area 1:		
Group 1-A	$13.56	$9.14
Group 2	14.05	9.14
Group 3	14.30	9.14
Group 4	14.99	9.14
Group 5	15.27	9.14
Group 6	15.43	9.14
Group 7	15.66	9.14
Group 8	16.21	9.14
Group 9	16.51	9.14
Group 10	16.84	9.14
Group 10-A	17.01	9.14
Group 11	17.24	9.14
Group 11-A	18.76	9.14
Area 2:		
Group 1-A	15.06	9.14
Group 2	15.55	9.14
Group 3	15.80	9.14
Group 4	16.49	9.14
Group 5	16.77	9.14
Group 6	16.93	9.14
Group 7	17.16	9.14
Group 8	17.71	9.14
Group 9	18.01	9.14
Group 10	18.34	9.14
Group 10-A	18.51	9.14
Group 11	18.74	9.14
Group 11-A	20.26	9.14
Area 3:		
Group 1-A	15.56	9.14
Group 2	16.05	9.14
Group 3	16.30	9.14
Group 4	16.99	9.14
Group 5	17.27	9.14
Group 6	17.43	9.14
Group 7	17.66	9.14
Group 8	18.21	9.14
Group 9	18.51	9.14
Group 10	18.84	9.14
Group 10-A	19.01	9.14
Group 11	19.24	9.14
Group 11-A	20.76	9.14
Area 4:		
Group 1-A	16.56	9.14
Group 2	17.05	9.14
Group 3	17.30	9.14
Group 4	17.99	9.14
Group 5	18.27	9.14

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Except Piledriving and Steel Erection) (Cont'd)		
Remaining Counties:		
Area 4: (Cont'd)		
Group 6	$18.43	$9.14
Group 7	18.66	9.14
Group 8	19.21	9.14
Group 9	19.51	9.14
Group 10	19.84	9.14
Group 10-A	20.01	9.14
Group 11	20.24	9.14
Group 11-A	21.76	9.14
Piledriving:		
Remaining Counties		
Group 1	13.54	9.14
Group 1-A	14.00	9.14
Group 1-B	14.28	9.14
Group 2-A	14.28	9.14
Group 2-B	15.05	9.14
Group 2-C	15.28	9.14
Group 2-D	15.48	9.14
Group 3	15.68	9.14
Group 3-A	16.26	9.14
Group 4	17.00	9.14
Group 5	17.23	9.14
Group 6	18.76	9.14
Steel Erection:		
Remaining Counties:		
Group 1	14.18	9.14
Group 2	14.68	9.14
Group 3	16.05	9.14
Group 4	16.24	9.14
Group 4-A	16.65	9.14
Group 5	17.32	9.14
Group 6	17.90	9.14
Group 7	18.30	9.14
Group 8	18.69	9.14
Group 9	20.09	9.14
TRUCK DRIVERS:		
Clark, Esmeralda, and Lincoln Counties; and Nye County (south of and excluding Highway #6):		
Group 1	12.78	2.07
Group 2	12.89	2.07
Group 3	12.94	2.07
Group 4	13.10	2.07
Group 5	13.28	2.07
Group 6	13.78	2.07

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	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS: (Cont'd)		
Remaining Counties; and Nye County (north of and including Highway #6):		
Group 1	$12.72	$3.28
Group 2	12.77	3.28
Group 3	12.88	3.28
Group 4	12.94	3.28
Group 5	12.99	3.28
Group 6	13.04	3.28
Group 7	13.15	3.28
Group 8	13.21	3.28
Group 9	13.26	3.28
Group 10	13.32	3.28
Group 11	13.43	3.28
Group 12	13.48	3.28
Group 13	13.74	3.28
Group 14	13.76	3.28
Group 15	13.92	3.28
Group 16	14.09	3.28

Basic Hourly Rates	Fringe Benefits

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTE:
a. Employer contributes 8% basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays A thru G.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day E-Thanksgiving Day; F-Friday after Thanksgiving Day; G-Christmas Day

AREA DESCRIPTIONS

ASBESTOS WORKERS:
Area 1: Clark, Esmeralda, Lincoln, and Nye Counties
Area 2: Elko, Eureka, and White Pine Counties
Area 3: Remaining Counties

BRICKLAYERS; STONEMASONS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)
Area 2: Remaining Counties and Nye County (north of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)

BRICK HOD CARRIERS:
Area 1: Statewide (excluding Clark, Esmeralda, and Lincoln Counties, Nye County (south of Highway #6))

CARPENTERS:
Area 1: Clark County; Esmeralda County (south of Highway #6); Lincoln County; Nye County (south of Highway #6)
Area 2: Remaining Counties; Esmeralda and Nye Counties (north of Highway #6)

CEMENT MASONS:
Area 1: Clark, Lincoln, and Nye Counties
Area 2: Remaining Counties (excluding Lake Tahoe Area)
Area 3: Lake Tahoe Area

ELECTRICIANS:
Area 1: Clark and Lincoln Counties; Nye County (south of Mt. Diablo Base Line)
Area 2: Remaining Counties; Nye County (north of Mt. Diablo Base Line, excluding Lake Tahoe Area)
Area 3: Lake Tahoe Area

AREA DESCRIPTIONS (Cont'd)

ELEVATOR CONSTRUCTORS:
Area 1: Nevada east of 118° longitude and south of 39° north latitude
Area 2: Nevada west of 118° longitude

GLAZIERS:
Area 1: Clark, Esmeralda, Lincoln, and Nye Counties
Area 2: Remaining Counties

IRONWORKERS:
Area 1: Elko, Eureka, White Pine Counties
Area 2: Remaining Counties

LATHERS:
Area 1: Statewide (excluding Clark County; Esmeralda County (south of Highway #6); Lincoln County; Nye County (south of Highway #6))

LINE CONSTRUCTION WORKERS:
Area 1: Clark and Lincoln Counties; Nye County (south of Mt. Diablo Base Line)
Area 2: Remaining Counties and Nye County (north of Mt. Diablo Base Line) (excluding Lake Tahoe Area)
Area 3: Lake Tahoe Area

MARBLE MASONS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)
Area 2: Remaining Counties and Nye County (north of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)

MARBLE, TERRAZZO, and TILE FINISHERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)
Area 2: Remaining Counties and Nye County (north of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)

MASON TENDERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of Highway #6)

AREA DESCRIPTIONS (Cont'd)

PAINTERS:
Area 1: Clark, Esmeralda, Lincoln, and Nye Counties
Area 2: Remaining Counties including Lake Tahoe Area

PLASTER HOD CARRIERS:
Area 1: Statewide excluding Clark, Esmeralda, and Lincoln Counties; Nye County (south of Highway #6)

PLASTER TENDERS:
Area 1: Clark, Esmeralda, and Lincoln Counties, Nye County (south of Highway #6)

PLASTERERS:
Area 1: Clark, Lincoln, and Nye Counties
Area 2: Remaining Counties

PLUMBERS; Steamfitters:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of Highway #6, excluding City of Tonopah)
Area 2: Remaining Counties and Nye county (north of Highway #6, including City of Tonopah)

PLUMBERS (Utility):
Area 1: Statewide (except Clark, Esmeralda, and Lincoln Counties, Nye County (south of Highway #6, excluding the City of Tonopah))

ROOFERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of Highway #6)
Area 2: Remaining Counties and Nye County (north of Highway #6)

SHEET METAL WORKERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of the First Standard Parallel Line north of the 38th Parallel); White Pine County
Area 2: Remaining Counties and Nye County (north of the First Standard Parallel Line north of the 38th Parallel)

SOFT FLOOR LAYERS:
Area 1: Clark, Esmeralda, Lincoln, and Nye Counties
Area 2: Remaining Counties including Lake Tahoe Area

TERRAZZO WORKERS; TILE SETTERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)
Area 2: Remaining Counties and Nye County (north of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)

LABORERS
Clark, Esmeralda, and Lincoln Counties; Nye County (south half, including Highway #6)

Group 1: Cutting Torch Operator (demolition); Dry Packing of Concrete and Filling of Form-bolt Holes; Fine Grader, highway and street paving, airport runways and similar type heavy construction; Spotter, Debris Handler and Dumpman; Gas and Oil Pipeline Laborer; Guinea Chaser; Laborer, demolition (cleaning of bricks, lumber, etc.); Laborer, general or construction; Laborer, packing rod steel and pans; Laborers, temporary water lines (portable type); Landscape Gardener and Nurseryman; Tarman and Mortarman, Kettleman, Potman and man applying asphalt, lay-kold creosote, lime and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Underground Laborer, including Caisson Bellowers; Window Cleaner

Group 2: Asphalt Raker, Ironer, Spreader, Luteman; Buggymobile Man; Cement Dumper (on 1 yard or larger mixers and handling bulk cement); Cesspool Digger and Installer; Chucktender (except tunnel); Concrete Core Cutter; Concrete Curer, Impervious Membrane and Oiler of all materials; Concrete Saw Man, excluding tractor type, cutting, scoring old or new concrete; Gas and Oil Pipeline Wrapper, Pot Tender and Form Man; Making and caulking of all non-metallic pipe joints; Operators and Tenders of pneumatic and electric tools, Vibrating Machines, hand-propelled Trenching Machines, Impact Wrench, multiplate and similar mechanical tools not separately classified herein; Operator of Cement Grinding Machine; Riprap Stonepaver; Roto-scraper; Sandblaster (Pot Tender); Scaler; Septic Tank Digger and Installer (Leadman); Tank Scaler and Cleaner; Tree Climber, Faller, Chain Saw Operator, Pittsburgh Chipper and similar type Brush Shredders

Group 3: Gas and Oil Pipeline Wrapper, 6 inch pipe and over; Jackhammer and/or Pavement Breaker; Laying of all non-metallic pipe, including sewer pipe, drain pipe, and underground tile; Oversize Concrete Vibrator, 70 lbs. and over; Rock Slinger; Scaler (using Bos'n Chair or Safety Belt or power tools)

Group 4: Cribber or Shorer, Lagging, Sheeting, Trench Bracing, hand guided Lagging Hammer; Head Rock Slinger; Powderman - Blaster, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Sandblaster (Nozzleman); Steel Headerboard Man

Group 5: Driller (Core, Diamond or Wagon); Joy Driller Model TW-M-2A, Gardner-Denver Model DH 143 and similar type drills

LABORERS (Cont'd)
Remaining Counties

Group 1: All cleanup work of debris, grounds and building including windows and tile; Dumpman or Spotter (other than asphalt); General Laborer; Gardeners and Landscape Laborers; Limber, Brushloader and Piler

Group 2: Choker Setter or Rigger (clearing work only); Pittsburgh Chipper and similar type Brush Shredders; Concrete Worker (wet or dry) all concrete work not listed in Group 3; Crusher or Grizzle Tender; Guinea Chaser (Stakeman); Panel Forms (wood or metal) handling, cleaning and stripping of; Loading and unloading, carrying and handling of all rods and material for reinforcing concrete; Railroad Trackmen (builders); Sloper; Semi-skilled Wrecker (salvaging of building materials other than those listed in Group 3); Greasing Dowels

Group 3: Asphalt Workers (Ironers, Shoveler, Cutting Machine); Buggymobile; Chainsaw, Faller, Logloader and Bucker; Compactor (all types); Concrete Mixer, under 1/2 yd.; Concrete Pan Work (breadpan type) (handling, cleaning, stripping); Concrete Saw, Chipping, Grinding, Sanding, Vibrator; Cribbing, Shoring, Lagging, Trench Jacking, Hand-guided Lagging Hammer; Curbing or Divider Machine; Curb Setter (precast or cut); Ditching Machine (hand-guided); Driller's Tender, Chuck Tender; Form Raiser, Slip Forms; Grouting of concrete walls, windows and door jams; Headerboardman; Jackhammer, Pavement Breaker, Air Spade; Mastic Worker (wet or dry); Pipe Wrapper, Kettleman, Potman, and men applying asphalt, Creosote and similar type materials; All power tools (air, gas or electric) not listed in Group 5; Pipejacking; Posthole Digger (air, gas or electric); Post Driver; Riprap-stonepaver and Rock Slinger, including placing of sack concrete, wet or dry; Roto Tiller; Rigging and Signaling in connection with Laborers' work; Sandblaster, Potman, Gunman or Nozzleman; Vibra-screed; Skilled Wrecker (removing and salvaging of sash windows, doors, plumbing and electrical fixtures

Group 4: Burning and Welding in connection with Laborers' work; Joy Drill Model TWM-2A, Gardner Denver Model DN 143 and similar type Drills; Track Drillers, Diamond Core Drillers, Wagon Drillers, Mechanical Drillers on multiple units; High Scalers; Concrete Pump; Heavy Duty Vibrator with stinger 5" diameter or over; Pipelayer, Caulker and Bander; Pipelayer - waterline, sewerline, gasline, conduit; Asphalt Rakers

Group 5: Blaster and Powderman, all work of loading, placing and blasting of all powder and explosives of any type, regardless of method used for such loading and placing

Group 6-A: Nozzleman

Group 6-B: Gunman, Materialman

Group 6-C: Reboundman

POWER EQUIPMENT OPERATORS
Clark, Esmeralda, Lincoln, and Nye Counties

Group 1: Brakeman; Compressor Operator; Ditch Witch, with seat or similar type equipment; Elevator Operator - inside; Engineer Oiler; Forklift Operator (under 5 tons capacity); Generator Operator; Generator, Pump or Compressor Plant Operator; Heavy duty Repairman Tender; Pump Operator; Switchman

Group 2: Concrete Mixer Operator - skip type; Conveyor Operator; Fireman; Hydrostatic Pump Operator; Oiler Crusher (asphalt or concrete plant); Rotary Drill Tender (Oilfield); Skiploader (wheel type up to 3/4 yard without attachment); Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant Operator; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck Operator; Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine Operator; Power Concrete Saw Operator; Power-driven Jumbo Form Setter Operator; Ross Carrier Operator (jobsite); Stationary pipe wrapping and cleaning Machine Operator

Group 4: Asphalt Plant Fireman; Boring Machine Operator; Boxman or Mixerman (asphalt or concrete); Bridge-type Unloader and Turnable Operator; Chip Spreading Machine Operator; Concrete Pump Operator (small portable); Dinkey Locomotive or Motorman (up to and including 10 ton); Equipment Greaser (grease truck); Helicopter Hoist Operator; Highline Cableway Signalman; Hydra-Hammer-Aero Stomper; Power Sweeper Operator; Roller Operator (compacting); Screed Operator (asphalt or concrete); Trenching Machine Operator (up to 6 feet)

Group 5: Asphalt Plant Engineer; Batch Plant Operator; Bit Sharpener; Concrete Joint Machine Operator (canal and similar type); Concrete Planer Operator; Deck Engine Operator; Derrickman (Oilfield type); Drilling Machine Operator (including water wells); Hydrographic Seeder Machine Operator (straw, pulp or seed); Jackson Track Maintainer, or similar type; Kalamazoo Switch Tamper, or similar type; Machine Tool Operator; Maginnis Internal Full Slab Vibrator; Mechanical Berm, curb or gutter (concrete or asphalt); Mechanical Finisher Operator (concrete, Clary - Johnson - Bidwell or similar); Pavement Breaker Operator; Road Oil Mixing Machine Operator; Roller Operator (asphalt or finish); Rubber-tired earth moving equipment (single engine, up to and including 25 yards struck); Self-propelled Tar Pipelining Machine Operator; Skiploader Operator (Crawler and wheel type, over 3/4 yard and up to and including 1½ yards); Slip Form Pump Operator (power-driven hydraulic lifting device for concrete forms); Stinger Crane (Austin-Western or similar type); Tractor Operator - Bulldozer, Tamper, Scraper (single engine, up to 100 H.P., flywheel and similar types, up to and including D-5 and similar types); Tugger Hoist (1 drum); Tunnel Locomotive Operator (over 10 and up to and including 30 tons)

POWER EQUIPMENT OPERATORS (Cont'd)
Clark, Esmeralda, Lincoln, and Nye Counties

Group 6: Asphalt or Concrete Spreading Operator (tamping or finishing); Asphalt Paving Machine Operator (Barber-Greene or similar type); Backhoe Operator (up to and including 3/4 yd.); Bridge Crane Operator; Cast-in-place Pipelaying Machine Operator; Combination Mixer and Compressor Operator (gunite work); Compactor Operator - self-propelled; Concrete Mixer Operator - paving; Concrete Pump Operator - truck mounted; Crane Operator (up to and including 25 tons capacity); Cretor Crane Operator; Crushing Plant Operator; Drill Doctor; Elevating Grader Operator; Forklift Operator (over 5 tons); Grade Checker; Gradall Operator; Grouting Machine Operator; Guard Rail Post Driver Operator; Heading Shield Operator; Heavy duty Repairman; Hoist Operator (Chicago Boom and similar type); Kalamazoo Balliste Regulator or similar type; Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Mobile Operator; Lift Slab Machine Operator (Vagtborg and similar types); Loader Operator (Athey, Euclid, Sierra and similar types); Material Hoist Operator; Mucking Machine Operator (1/4 yard)(rubber-tired, rail or track type); Pneumatic Concrete Placing Machine Operator (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Polar Gantry Crane Operator; Pumpcrete Gun Operator; Rotary Drill Operator (excluding Caisson type); Rubber-tired earth moving equipment Operator (single engine, Caterpillar, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yards and up to and including 50 cu. yards struck); Rubber-tired earth moving equipment Operator (multiple engine - up to and including 25 yards struck); Rubber-tired Scraper Operator (self-loading - paddle wheel - John Deere, 1040 and similar single unit); Self-propelled Curb and Gutter Machine Operator; Skiploader Operator (Crawler and wheel type - over 1½ yards up to and including 6½ yards); Surface Heater and Planer Operator; Tower Crane Operator; Tractor Compressor Drill Combination Operator; Tractor Operator (any type larger than D-5 - 100 flywheel H.P. and over, or similar - Bulldozer, Tamper, Scraper, and Push Tractor, single engine); Tractor Operator (boom attachments); Traveling Pipe wrapping, cleaning and bending Machine Operator; Trenching Machine Operator (over 6 ft. depth capacity, manufacturer's rating); Tunnel Locomotive Operator (over 30 tons); Shovel, Backhoe, Dragline, Clamshell Operator (over 3/4 yard and up to 5 cu. yards M.R.C.)

POWER EQUIPMENT OPERATORS: (Cont'd)
Clark, Esmeralda, Lincoln, and Nye Counties

Group 7: Crane Operator (over 25 tons up to and including 100 tons M.R.C.); Derrick Barge Operator; Dual Drum Mixer; Heavy-duty Repairman-Welder Combination; Hoist Operator, Stiff Legs, Guy Derrick, or similar type, up to and including 100 tons); Monorail Locomotive Operator (diesel, gas or electric); Motor Patrol - Blade Operator (single engine); Multiple Engine Tractor Operator (Euclid and similar type - except Quad 9 Cat); Pedestal Crane Operator; Rubber-tired earth moving equipment Operator (single engine, over 50 yards struck); Rubber-tired earth moving equipment Operator (multiple engine, Euclid, Caterpillar and similar - over 25 yards and up to 50 yards struck); Shovel, Backhoe, Dragline, Clamshell Operator (over 5 cu. yards M.R.C.); Tower Crane Repairman; Tractor Loader Operator (Crawler and wheel-type, over 6½ yards); Woods Mixer Operator (and similar Pugmill equipment)

Group 8: Auto Grader Operator; Automatic Slip Form Operator; Crane Operator - over 100 tons; Crawler Transporter Operator; Hoe Ram or similar with Compressor; Hoist Operator (Stiff Legs, Guy Derrick, or similar type - capable of hoisting 100 tons or more); Mass Excavator Operator - less than 750 cu. yds.; Mechanical Finishing Machine Operator; Mobile Form Traveler Operator; Mobile Tower Crane Operator; Motor Patrol Operator (multi-engine); Pipe Mobile Machine Operator; Rubber-tired earth moving equipment Operator (multiple engine, Euclid, Caterpillar and similar type - over 50 cu. yds. struck); Rubber-tired Scraper Operator (pushing one another without Push Cat, Push-pull); Rubber-tired self-loading Scraper Operator (paddle wheel - Auger type self-loading - two or more units); Tandem equipment Operator (two units only); Tandem Tractor Operator (Quad 9 or similar type); Tunnel Mole Boring Machine Operator

Group 9: Canal Linear Operator; Canal Trimmer Operator; Helicopter Pilot; Highline Cableway Operator; Polar Crane Operator; Remote Controlled earth moving equipment Operator ($1.00 per hour additional to base rate); Wheel Excavator Operator (over 750 cu. yds. per hour)

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)
Remaining Counties

AREA DEFINITIONS

AREA 1: Area within 50 road miles of either the Carson City Courthouse or the Washoe County Courthouse
AREA 2: Area between 50 and 150 road miles of the Washoe County Courthouse
AREA 3: Area between 150 and 300 road miles of the Washoe County Courthouse
AREA 4: Area over 300 road miles of the Washoe County Courthouse

Group 1-A: Brakeman; Deckhand; Fireman; Oiler; Switchman; Tar Pot Fireman

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pumps; Tar Pot Fireman (power-agitated)

Group 3: Box Operator (bunker); Concrete Curing Machine (streets, highways, airports, canals); Conveyor Belt (tunnel); Engineer Generating Plant (500 K.W.); Fireman Hot Plant; Hydraulic Monitor; Mixer Box Operator (concrete plant); Motorman; Oiler (truck crane); Rotomist; Screedman (except asphaltic or concrete paving); Bobcat or similar loader, 1/4 cu. yd. or less

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper, multi-purpose; Boxman (asphalt plant); Concrete Mixer, skip type; Dinky; Fork Lift (construction jobsite); Line Master; Ross Carrier; Skip Loader (under 1 cu. yd.); Tie Spacer

Group 5: Concrete Mixer (over 1 cu. yd.); Concrete Pumps or Pumpcrete Guns; Elevator and Material Hoist (1 drum); Shuttle Car; Signalman; Screedman (Barber-Greene and similar)(asphalt or concrete paving)

Group 6: Boom Truck or Dual Purpose "A" Frame Truck; B.L.H. Lima Road Pactor or similar; Chip Box Spreader (Flaherty type or similar); Concrete Batch Plant (wet or dry); Concrete Saws (highways, streets, airports, canals); Highline Cableway Signalman; Locomotive (over 30 tons); Lubrication and Service Engineer (mobile and grease rack); Maginnis International Full Slab Vibrator (airports, highways, canals, warehouses); Mechanical Burn, Curb and/or Curb and Gutter Machine (concrete or asphalt); Pavement Breaker, truck mounted, with compressor combination; Pavement Breaker or Tamper (with or without compressor combination); Power Jumbo (setting slip-forms, etc., in tunnels); Roller (except asphalt); Self-propelled Tape Machine; Self-propelled Compactor (single engine); Slip Form Pump (power-driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Small Rubber-tired Tractors; Snooper Crane, Paxton-Mitchell or similar; Stationary Pipe Wrapping, Cleaning and Bending Machine; Auger-type drilling equipment up to and including 30 feet depth drilling capacity M.R.C.

POWER EQUIPMENT OPERATORS (Cont'd)
Except Piledriving and Steel Erection) (Cont'd)
Remaining Counties

Group 7: Bit Sharpener; Compressor (over 2); Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Concrete Conveyor, building site; Deck Engineer; Drilling and Boring Machinery, vertical and horizontal (not to apply to Waterliners, Wagon Drills or Jackhammers); Crusher Plant Engineer; Generators; Kolman Loader; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Pipe Bending Machines (pipelines only); Pipe Cleaning Machines (tractor propelled and supported); Pipe Wrapping Machines (tractor propelled and supported); Portable Crushing and Screening Plants; Pumps (over 2); Refrigeration Plants; Roller Operator (asphalt); Self-propelled Boom-type lifting device (center mount) (10 ton capacity or less); Slusher; Soil Tester (certified); Surface Heater and Planer; Trenching Machine (maximum digging capacity 3 feet depth); Post Driller and/or Driver; Auger-type drilling equipment over 30 ft. depth digging capacity M.R.C.

Group 8: Asphalt Milling Machine; Asphalt Plant Engineer; Car Passer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor; Concrete Batch Plant (multiple units); Dozer; Drill Doctor; Elevating Grader; Gradesetter, Grade Checker; Grooving and Grinding Machine (highway); Heavy-duty Repairman and/or Welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Mechanical Trench Shield; Mixermobile; Push Cats; Road Oil Mixing Machine (Wood-mixer and other similar Pugmill equipment); Rubber-tired earth-moving equipment (up to and including 35 cu. yds. "struck" M.R.C., Euclid, T-Pulls, DW's 10, 20, 21, and similar); Self-propelled Compactor with Dozer; Hyster 450 or Cat 825 or similar; Sheepfoot; Small Tractor (with boom); Soil Stabilizer (P & H or equal); Timber Skidder (rubber-tired or similar equipment); Tractor-drawn Scraper; Tractor; Tractor-mounted Compressor Drill combination; Trenching Machine (over 3 feet depth); Tri-batch Paver; Tunnel Badger or Tunnel Boring Machine; Tunnel Mole Boring Machine; Vermeer T-600B Rock Cutter

Group 9: Chicago Boom; Combination Backhoe and Loader (up to and including 3/8 yards); Combination Mixer and Compressor (gunite); Lull Hi-lift (20 feet or over); Mucking Machine; Sub-grader (Gurries or other types); Tractor (with boom) (D6 or larger); Track-laying-type earthmoving Machine (single engine with Tandem Scrapers)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)
Remaining Counties (Cont'd)

Group 10: Boom-type Backfilling Machine; Bridge Crane; Cary-lift or similar; Chemical Grouting Machine; Derricks; Derrick Barges (except excavation work); Euclid Loader and similar types; Heavy-duty Rotary Drill Rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu. yds. up to and including 4 cu. yds.); Locomotive (over 100 tons)(single or multiple units); Multiple-engine Earth-moving Machines (Euclid, Dozers, etc.); Pre-stress Wire-wrapping Machine; Rubber-tired Scraper, self-loading; Single-engine Scraper (over 35 cu. yds.); Self-propelled Reservoir-debris equipment Floating (200 HP and over); Shuttle Car (reclaim station); Train Loading Station; Trenching Machine multi-engine with sloping attachment (Jefco or similar); Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons)

Group 10-A: Backhoe (up to and including 1 cu. yd. hydraulic); Backhoe (up to and including 1 cu. yd. cable); Cranes (not over 25 tons)(Hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Motor Patrol; Power Shovels, Clamshells, Draglines, Cranes (up to and including 1 cu. yd.); Rubber-tired Scraper, self-loading (twin-engine); Self-propelled Boom-type lifting device (center mount)(over 10 tons up to and including 25 tons); CMI Dual-lane Auto-grader SP30 or similar

Group 11: Automatic Asphalt or Concrete Slip-form Paver; Automatic Railroad Car Dumper; Canal Trimmer; Cary Lift, Campbell or similar; Cranes (over 25 tons); Highline Cableway Operator; Loader (over 4 cu. yds. up to and including 12 cu. yds.); Multiple-engine Scraper (when used to Push Pull); Multi-engine Earthmoving equipment (up to and including 75 cu. yds. "struck" M.R.C.); Power Shovels, Clamshells, Draglines, Backhoes, Grade-alls (over 1 cu. yd. and up to and including 7 cu. yds. M.R.C.); Self-propelled Compactor (with multiple-propulsion power units); Self-propelled Boom-type lifting device (over 25 tons M.R.C.); Single-engine Rubber-tired Earthmoving Machine (with Tandem Scraper); Slip-form Paver (concrete or asphalt); Tandem Cats and Scrapers; Tower Crane Mobile (including rail-mounted); Truck-mounted Hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons); Universal Liebher and Tower Cranes (and similar types); Wheel Excavator (up to and including 750 cu. yds. per hour); Whirley Cranes (over 25 tons); Euclid Loader when controlled from the Pullcat

Group 11-A: Band Wagons (in conjunction with wheel excavators); Loaders (over 12 cu. yds.); Multi-engine earthmoving equipment (over 75 cu. yds. "struck" M.R.C.); Operator of Helicopter (when used in construction work); Power Shovels, Clamshells, Draglines, Backhoes and Gradalls (over 7 cu. yds. M.R.C.); Remote-controlled earthmoving equipment; Wheel Excavator (over 750 cu. yds. per hour)

POWER EQUIPMENT OPERATORS (Cont'd)
Piledriving
Remaining Counties

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Forklift Operator

Group 2-C: A-Frames

Group 2-D: Compressor Operator (over 2); Generator Operator; Pump Operator (over 2); Welding Machine Operator (powered other than by electricity)

Group 3: Deck Engineer; Self-propelled Boom-type lifting device (center mount) (10 ton capacity or less M.R.C.)

Group 3-A: Heavy-duty Repairman/Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending Boiler or Compressor attached to Crane Piledriver; Operator of Piledriving Rigs, Skid or Floating and Derrick Barges; Operator of diesel or gasoline powered Crane Pile-driver (without boiler)(up to and including 1 cu. yd. rating); Self-propelled Boom-type lifting device (center mount)(over 10 tons up to and including 25 tons); Truck Crane Operator (up to and including 25 tons - hoisting material only)

Group 5: Operator of diesel or gasoline powered Crane Pile-driver (without boiler)(over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam-powered Crawler, or Universal-type Driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work); Self-propelled boom-type lifting device (center mount) (over 25 tons); Truck-mounted Hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons)

Group 6: Cranes (over 125 tons)

STEEL ERECTION

Group 1: Oiler

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 K.W. or over)(structural steel or tank erection only); Truck Crane Oiler

POWER EQUIPMENT OPERATORS (Cont'd)
Steel Erection - Remaining Counties (Cont'd)

Group 3: Compressors, Generators and/or Welding Machines or Combination (2 to 6) (structural steel or tank erection only); Deck Engineer; Signalman (using mechanical equipment); Forklift

Group 4: Heavy-duty Repairman; Tractor Operator

Group 4-A: Combination Heavy-duty Repairman/Welder

Group 5: Boom Truck or Dual Purpose A-Frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 ton M.R.C. or less); Self-propelled boom-type lifting device (center mount) (10 ton capacity or less M.R.C.); Single drum Hoist; Tugger Hoist

Group 6: Cary Lift, Campbell or similar; Crawler Cranes and Truck Cranes (over 15 tons M.R.C.); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Self-propelled boom-type lifting device (center mount)(over 10 tons up to and including 25 tons); Tower Cranes Mobile; Universal Liebher and Tower Cranes (and similar types); Two or more drum Hoist

Group 7: Self-propelled boom-type lifting device (center mount) (over 25 tons); Truck-mounted Hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons)

Group 8: Cranes (over 125 tons)

Group 9: Operator of Helicopter

TRUCK DRIVERS
Clark, Esmeralda, and Lincoln Counties; and Nye County (south of and excluding Highway #6)

Group 1: Dump Trucks (less than 12 yards); Trucks (legal payload capacity less than 15 tons); Water and Fuel Trucks (under 2500 gallons); Pickups; Service; Repairman Tender; Drivers of busses (on jobsite used for transportation of up to 25 passengers); Teamster equipment (highest rate for dual craft operation)

Group 2: Dump Trucks (12 yards but less than 16 yards); Trucks (legal payload capacity between 15 and 20 tons); Water and Fuel Trucks (2500 to 4000 gallons); Truck Driver working on gas and oil pipeline (including Winch Truck and all sizes of trucks); Truck Greaser and Tireman; Drivers of busses (on jobsite used for transportation of more than 25 passengers); Bootman

Group 3: Dumpcrete (less than 6½ yards); Transit-Mix (less than 3 yards); Warehouse Clerk

TRUCK DRIVERS (Cont'd)
Clark, Esmeralda, and Lincoln Counties; and Nye County (south of and excluding Highway #6) (Con'td)

Group 4: Dump Trucks (16 yards up to and including 22 yards); Trucks (legal payload capacity 20 ton but less than 30 tons); Water and Fuel Trucks (4000 gallons but less than 6000 gallons); Dumpcrete (6½ yards and over); Transit-mix (3 yards but less than 6 yards); Euclid-type Spreader Trucks; Dumpster; Fork Lift; Ross Carrier - highway; Road Oil Spreading Truck, time spent spreading oil

Group 5: Dump Trucks (over 22 yards); Trucks (legal payload capacity 20 tons and over); Water and Fuel Trucks (6000 gallons and over); Transit-mix (6 yards and over); Truck Repairman

Group 6: D.W. and similar type equipment, D.W. 10 and D.W. 20; Euclid-type equipment, LeTourneau Pulls, Terra Cobras and similar types of equipment; also PB and similar-type Trucks when performing work within Teamsters' jurisdiction, regardless of types of attachment including power unit pulling off highway Belly Dumps in Tandem

Remaining Counties; and Nye County (north of and including Highway #6)

Group 1: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, under 4 yards

Group 2: Bus and Manhaul Drivers, single units, Pickup, up to 1800 lbs.

Group 3: Bus and Manhaul Drivers, single unit, Pickup, 18,000 lbs. and over; Winch Trucks, A-Frame, under 18,000 lbs.; Road Oil Trucks or Bootman; Fuel Drivers; Fuel Man and Fuel Island Man

Group 4: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 4 yards and under 8 yards; Water Trucks and Jetting Trucks, up to 2,500 gallons; Flatrack, Industrial Lift with Mechanical Tailgate, single unit 2-axle; Warehouse Clerk

Group 5: Winch Trucks, A-Frame, 18,000 lbs. and over; Lift Jitneys and Fork Lifts

Group 6: Flatrack, Industrial Lift with Mechanical Tailgate, single unit 3-axle

TRUCK DRIVERS: (Cont'd)
Remaining Counties; and Nye County (north of and including Highway #6) (Cont'd)

Group 7: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 8 yds. and under 18 yards; Transit Mix under 8 yards; Water Trucks and Jetting Trucks, 2,500 gallons and over; Tire Repairman

Group 8: Bootman, combination; Bootman and Road Oiler

Group 9: Transit Mix, 8 yards and including 12 yards

Group 10: Dump (single or multiple unit including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 18 yards and under 35 yards; Heavy Duty Transport (Highbed); Heavy Duty Transport (Gooseneck Lowbed); Tiltbed or Flatbed Pull Trailers

Group 11: DW 20's and 21's and other similar Cat type; Terra Cobra, LeTourneau Pulls, Tournerocker, Euclid and similar type equipment when pulling Aqua/Pak; Water Tank Trailers, Fuel and/or Grease Tank, or other miscellaneous trailers (except as defined under Dump Trucks)

Group 12: Transit Mix, over 12 yards; Truck Repairman

Group 13: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 35 yards and under 60 yards

Group 14: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 60 yards and under 75 yards; Helicopter Pilot (when transporting men or materials)

Group 15: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 75 yards and under 100 yards

Group 16: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Dement Spreaders, 100 yards and over

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(1)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Nevada

COUNTIES: Nevada Test Site including Tonopah Test Range in Clark, Lincoln, and Nye Counties

DECISION NUMBER: NV82-5114 DATE: Date of Publication

Supersedes Decision NV81-5161 dated November 6, 1981, in 46 FR 55210

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.52	$2.80
BOILERMAKERS	20.01	3.59
BRICKLAYERS	16.59	1.86
CARPENTERS:		
Carpenters; Saw Filer; Power actuated tools; Pneumatic Nailer	17.96	2.75
Floor Layers; Shingler	17.985	2.75
Millwrights	18.96	2.75
Piledrivers	18.16	2.75
Power Saw Operator	18.11	2.75
CEMENT MASONS:		
Cement Masons	13.30	5.88
Floor Finishing Machine	13.65	5.88
ELECTRICIANS:		
Electricians; Equipment Operators; Linemen	18.99	3%+4.54
Cable Splicers	19.32	3%+4.54
Groundman	15.73	3%+4.54
ELEVATOR CONSTRUCTORS:		
Mechanics	18.67	a+2.465
Mechanics' Helpers	13.07	a+2.465
Probationary Helpers	9.335	
GLAZIERS	14.82	3.36
IRONWORKERS:		
Ornamental; Reinforcing; Structural	18.46	5.33
MARBLE SETTERS	16.59	1.86
MASON TENDERS	13.87	2.58
PAINTERS:		
Brush; Roller	17.16	3.46
Paperhangers; Spray; Steel; Sandblasters; Swing State; Tapers	17.51	3.46
Buffing Steel; Sandblasters, steel	17.77	3.46
PLUMBERS; Steamfitters	20.90	4.18
ROOFERS	21.40	1.00
SHEET METAL WORKERS	20.15	2.83
SPRINKLER FITTERS	21.32	2.83
TERRAZZO WORKERS; TILE SETTERS	16.59	1.86

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Group 1	$13.25	$4.04
Group 2	13.30	4.04
Group 3	13.33	4.04
Group 4	13.35	4.04
Group 5	13.37	4.04
Group 6	13.38	4.04
Group 7	13.40	4.04
Group 8	13.43	4.04
Group 9	13.44	4.04
Group 10	13.46	4.04
Group 11	13.51	4.04
Group 12	13.54	4.04
Group 13	13.56	4.04
Group 14	13.59	4.04
Group 15	13.61	4.04
Group 16	13.68	4.04
Group 17	13.70	4.04
Group 18	13.77	4.04
POWER EQUIPMENT OPERATORS: (Except Piledriving and Steel Erection):		
Group 1	15.58	5.29
Group 2	15.82	5.29
Group 3	16.06	5.29
Group 4	16.17	5.29
Group 5	16.36	5.29
Group 6	16.46	5.29
TRUCK DRIVERS:		
Group 1	14.08	2.39
Group 2	14.19	2.39
Group 3	14.24	2.39
Group 4	14.40	2.39
Group 5	14.58	2.39

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTE:
a. Employer contributes 8% basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A thru. G

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving; G-Christmas Day

LABORERS

Group 1: Laborer - general; Laborer - demolition (cleaning of bricks, lumber, etc.); Dry Packing of concrete and filling of Form-bolt Holes; Spotter, Debris Handler and Dumpman; Fence Builder; Tool attendant (jobsite only); Gas and oil Pipeline Laborers

Group 2: Cutting Torch Operator (demolition); Tarman and Mortarman

Group 3: Guinea Chaser

Group 4: Fine Grader, highway and street paving, airport runways and similar work; Landscape Gardener, Nurseryman and Grounds Keeper

Group 5: Laborer - packing rod steel and pans

Group 6: Underground Laborer including Caisson Bellowers (except tunnels)

Group 7: Chucktender (except tunnels); Scaler; Septic Tank Digger and Installer (Leadman); Tank Scaler and Cleaner

Group 8: Cesspool Digger and Installer

Group 9: Concrete Curer - Impervious Membrane and Oiler of all materials and Form Oiler; Riprap Stonepaver; Sandblaster (Pot Tender); Making and caulking of all non-metallic pipe joints

LABORERS (Cont'd)

Group 10: Operators and Tenders of pneumatic and electric tools, Vibrating Machines and similar mechanical tools not separately classified herein, including hand Guided Ditch Witch and hand type Roller; Asphalt Raker, Ironer, Spreader; Buggymobile Man; Cement Dumper (on 1 yard or larger mixers and handling bulk cement); Concrete Saw Man excluding tractor type; Concrete Core Cutter; Gas and oil Pipeline Wrapper - Pot Tender and Form Man; Operator of Cement Grinding Machines; Roto-Scraper; Tree Climber, Faller, Chain Saw Operator; Pittsburgh Chipper and similar type Brush Shredders

Group 11: Rock Slinger; Scaler (using Bos'n's Chair or Safety belt or power tools)

Group 12: Driller and/or Pavement Breaker

Group 13: Laying of all nonmetallic pipe, including sewer pipe, drain pipe and underground tile

Group 14: Gas and oil Pipeline Wrappers - 6 inch pipe and over

Group 15: Cribber or Shorer; Powderman

Group 16: Steel Headerboard Man

Group 17: Driller (Core, Diamond or Wagon); Joy Driller Model TW-M-2A, Gardener-Denver Model DH 143 and similar type drills; Sandblaster (Nozzleman)

Group 18: Head Rock Slinger

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Air Compressor, Pump or generator; Engineer Oiler and Signal Man; Heavy Duty Repairman's Tender; Rotary Drill Tender (Rotary and Core); Switchman or Brakeman

Group 2: Concrete Mixer, skip type; Conveyor and Beltman; Fireman; Generator, pump or compressor (2-5 units inclusive, over 5 units, $0.10 per hour for each additional unit up to 10 units, portable units); Generator, pump or compressor plant; Hydrostatic Pump; Motorman (Rotary and Core); Skiploader, wheeltype, Ford, Ferguson, Jeep or similar type, 3/4 yard or less (without drag-type attachments); Temporary Heating Plant; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Derrickman (Rotary and Core); Dinky Locomotive or Tunnel Motor; Elevator Hoist; Equipment Greaser; Ford, Ferguson or similar type (with drag-type attachments); Hydra-hammer or similar type equipment; Power Concrete Curing Machine; Power Concrete Saw; Power-driven Jumbo Form Setter; Ross Carrier; Self-propelled Tar Pipelining Machine; Stationary Pipe Wrapping and Cleaning Machine; Towblade Operator

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixer Box (concrete or asphalt plant); Fishing Tool Engineer; Highline Cableway Signalman; Locomotive Engineer; Mud Plant Operator; Power Sweeper; Roller, Compacting Screed; Trenching Machine (up to 6 ft. depth capacity, manufacturer's rating)

Group 5: Asphalt or Concrete Spreading, Mechanical Tamping or Finishing Machine - Roller (all types and sizes), soil, cement, asphalt - finish; Asphalt Plant Engineer; Deck Engine; Grade Checker; Pavement Breaker; Pneumatic Heading Shield - tunnel; Road Oil Mixing Machine; Forklift, under five tons; Rubber-tired, heavy duty equipment (Oshkosh, DW, Euclid, LeTourneau, LaPlant-Choate, or similar type equipment with any type attachments); Skip-loader, wheeltype, over 3/4 yds., up to and including 1½ yds.; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tractor Operator - Drag-type Shovel, Bulldozer, Tamper, Scraper and Push Tractor

Group 6: Combination Heavy-duty Repairman and Welder (additional $0.10 per hour premium, $0.05 per hour tool allowance); Concrete Mixer, paving; Concrete Mobile Mixer; Concrete Pump or Pumpcrete Gun; Crushing Plant Engineer; Driller (Rotary and Core); Elevating Grader; Forklift, over 5 tons; Grade-all; Heavy-duty Repairman ($0.05 per hour tool allowance); Heavy-duty Welder; Highline Cableway; Hoist (Chicago Boom and Mine); Kolman Belt Loader and similar type; Lift Slab Machine; Loader Operator - Athey, Euclid, Hancock, Sierra or similar type; Motor Patrol (any type or size); Multiple-engine earthmoving machinery; Pneumatic Concrete Placing Machine - Hackley-Presswell or similar type; Shovel, Backhoe, Dragline, Clamshell, Derrick, Derrick Barge, Crane Piledriver and Mucking Machine; Skip-loader, wheeltype, over 1½ yds.; Surface Heater and Planer; Tractor Loader - Crawler type - all types and sizes; Tractor, with boom attachments; Traveling Pipe Wrapping, Cleaning and Bending Machine; Trenching Machine (over 6 ft. depth capacity, manufacturer's rating)

TRUCK DRIVERS

Group 1: Light Duty Driver

Group 2: Bootman; Truck Greaser

Group 3: Tireman

Group 4: Heavy Duty Driver; Forklift Driver

Group 5: Extra Heavy Duty Driver

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Nevada COUNTY: Washoe
DECISION NUMBER: NV82-5115 DATE: Date of Publication
Supersedes Decision No. NV82-5110 dated April 30, 1982, in 47 FR 18742
DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$24.86	$2.81
BOILERMAKERS	20.01	3.59
BRICKLAYERS; Stonemasons	16.32	1.95
BRICK HOD CARRIERS	13.51	2.60
CARPENTERS	15.30	4.86
CEMENT MASONS:		
Lake Tahoe Area:		
Cement Masons	15.55	4.70
Mastic, Magnesite and all Composition Masons	15.80	4.70
Troweling Machine; Grinder Operator and Kelly Float	16.05	4.70
Remainder of Washoe County:		
Cement Masons	13.80	4.70
Mastic, Magnesite and all Composition Masons	14.05	4.70
Troweling Machine; Grinder Operator and Kelly Float	14.30	4.70
DRYWALL INSTALLERS	14.05	4.07
ELECTRICIANS:		
Washoe County, does not include Lake Tahoe Area:		
Electricians; Technicians	21.28	3%+3.32
Cable Splicers	23.41	3%+3.32
Lake Tahoe Area:		
Electricians; Technicians	22.78	3%+3.32
Cable Splicers	24.91	3%+3.32
ELEVATOR CONSTRUCTORS:		
Mechanics	24.22	a+2.465
Helpers	16.95	a+2.465
Probationary Helpers	12.11	
GLAZIERS	15.88	6.32
IRONWORKERS:		
Fence Erectors	17.40	5.33
Ornamental; Reinforcing; Structural	18.29	5.33
LATHERS	18.07	.01
MARBLE MASONS	15.04	1.92
MARBLE, TERRAZZO, TILE FINISHERS	8.83	1.92
PAINTERS:		
Brush and Roller	$16.95	$1.95
Brush-swing stage, up to 40 ft.; Brush-steel	17.20	1.95
Spray; Taper; Paperhangers; Sandblasters	17.45	1.95
Spray-swing stage, up to 40 ft.; Spray-steel	17.70	1.95
PLASTER HOD CARRIERS:		
Plaster Hod Carriers serving Plasterers	14.70	2.50
Plaster Hod Carriers working on any type of gun (except TM-30)	15.30	2.50
Plaster Hod Carriers mixing on TM-30 machine	15.55	2.50
PLASTERERS	15.22	2.96
PLUMBERS; Steamfitters	18.24	4.78
ROOFERS	20.50	2.32
SHEET METAL WORKERS:		
Residential construction not over 3 stories in height, where each individual family apartment is individually conditioned by a separate and independent unit or system	13.26	5.46
All other residential construction	16.57	5.46
SOFT FLOOR LAYERS	15.94	1.74
SPRINKLER FITTERS	21.32	2.83
TERRAZZO WORKERS; TILE SETTERS	15.04	1.92
LABORERS:		
Group 1	12.41	2.60
Group 2	12.51	2.60
Group 3	12.66	2.60
Group 4	12.91	2.60
Group 5	13.21	2.60
Group 6-A	13.21	2.60
Group 6-B	12.91	2.60
Group 6-C	12.56	2.60

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

GROUPS	AREA 1	AREA 2	AREA 3	AREA 4
1-A	$13.56	$15.06	$15.56	$16.56
2	14.05	15.55	16.05	17.05
3	14.30	15.80	16.30	17.30
4	14.99	16.49	16.99	17.99
5	15.27	16.77	17.27	18.27
6	15.43	16.93	17.43	18.43
7	15.66	17.16	17.66	18.66
8	16.21	17.71	18.21	19.21
9	16.51	18.01	18.51	19.51
10	16.84	18.34	18.84	19.84
10-A	17.01	18.51	19.01	20.01
11	17.24	18.74	19.24	20.24
11-A	18.76	20.26	20.76	21.76

FRINGE BENEFITS PAYMENTS:
$8.59

AREA DEFINITIONS:

AREA 1: Area within 50 road miles of either the Carson City Courthouse or the Washoe County Courthouse

AREA 2: Area between 50 and 150 road miles of the Washoe County Courthouse

AREA 3: Area between 150 and 300 road miles of the Washoe County Courthouse

AREA 4: Area over 300 road miles of the Washoe County Courthouse

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (Cont'd)		
Piledriving:		
Group 1	$12.64	$8.59
Group 1-A	13.10	8.59
Group 1-B	13.38	8.59
Group 2-A	13.38	8.59
Group 2-B	14.15	8.59
Group 2-C	14.38	8.59
Group 2-D	14.58	8.59
Group 3	14.78	8.59
Group 3-A	15.36	8.59
Group 4	16.10	8.59
Group 5	16.33	8.59
Group 6	17.86	8.59
Steel Erection:		
Group 1	13.28	8.59
Group 2	13.78	8.59
Group 3	15.15	8.59
Group 4	15.34	8.59
Group 4-A	15.75	8.59
Group 5	16.42	8.59
Group 6	17.00	8.59
Group 7	17.40	8.59
Group 8	17.79	8.59
Group 9	19.19	8.59
TRUCK DRIVERS:		
Group 1	12.72	3.28
Group 2	12.77	3.28
Group 3	12.88	3.28
Group 4	12.94	3.28
Group 5	12.99	3.28
Group 6	13.04	3.28
Group 7	13.15	3.28
Group 8	13.21	3.28
Group 9	13.26	3.28
Group 10	13.32	3.28
Group 11	13.43	3.28
Group 12	13.48	3.28
Group 13	13.74	3.28
Group 14	13.76	3.28
Group 15	13.92	3.28
Group 16	14.09	3.28

Basic Hourly Rates	Fringe Benefits

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A thru G

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving Day; G-Christmas Day

LABORERS

Group 1: All cleanup work of debris, grounds and buildings including Brushloader and windows and tile; Dumpman or Spotter (other than asphalt); General Laborer; Gardeners and Landscape Laborers; Limber, Brushloader and Piler

Group 2: Choker Setter or Rigger (clearing work only); Pittsburgh Chipper and similar type Brush Shredders; Concrete Worker (wet or dry) - all concrete work not listed in Group 3; Crusher or Grizzly Tender; Guinea Chaser (Stakeman); Panel Forms (wood or metal) - handling, cleaning and stripping of; Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete; Railroad Trackmen (maintenance, repair or builders); Sloper; Semi-skilled Wreckers (salvaging of building materials other than those listed in Group 3); Greasing Dowels

Group 3: Asphalt Workers (Ironers, Shoveler, Cutting Machine); Buggymobile; Chainsaw, faller, logloader and bucker; Compactor (all types); Concrete Mixer, under 1/2 yard; Concrete pan work (breadpan type) (handling, cleaning, stripping); Concrete Saw, Chipping, grinding, sanding, Vibrator; Cribbing, shoring, Lagging, trench jacking, handguided Lagging Hammer; Curbing or Divider Machine; Curb Setter (pre-cast or cut); Ditching Machine (hand guided); Driller's Tender, Chuck Tender; Form Raiser, Slip forms; Grouting of concrete walls, windows and door jams; Headerboardman; Jackhammer, Pavement Breaker, Air Spade; Mastic Workers (wet or dry); Pipe Wrapper, Kettleman, Potman, and Men applying asphalt, creosote and similar type materials; All power tools (air, gas or electric not listed in Group 5); Pipejacking; Posthole Digger (air, gas or electric); Post Driver; Riprap-stonepaver and Rock Slinger, including placing of sack concrete wet or dry; Rototiller; Rigger and signaling in connection with Laborers' work; Sandblaster, Potman, Gunman or Nozzleman; Vibra-screed; Skilled Wrecker (removing and salvaging of sash, windows, doors, plumbing and electrical fixtures)

LABORERS (Cont'd)

Group 4: Burning and Welding in connection with Laborer's work; Joy Drill Model TWM-2A, Gardner Denver Model DN 143 and similar type drills; Track Drillers, Diamond Core Drillers, Wagon Drillers, Mechanical Drillers on multiple units; High Scalers; Concrete Pump; Heavy Duty Vibrator with stinger 5" diameter or over; Pipelayer, Caulker and Bander; Pipelayer - waterline, sewerline, gasline, or conduit; Asphalt Rakers

Group 5: Blasters and Powdermen, all work of loading, placing and blasting of all powder and explosives of any type, regardless of method used for such loading and placing

Group 6-A: Nozzleman

Group 6-B: Gunman, Materialman

Group 6-C: Reboundman

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Brakeman; Deckhand; Fireman; Oiler; Switchman; Tar Pot Fireman

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pumps; Tar Pot Fireman (power agitated)

Group 3: Box Operator (bunker); Concrete Curing Machine (streets, highways, airports, canals); Conveyor Belt (tunnel); Engineer Generating Plant (500 K.W.); Fireman Hot Plant; Hydraulic Monitor; Mixer Box Operator (concrete plant); Motorman; Oiler (truck crane); Rotomist; Screedman (except asphalt or concrete paving); Bobcat or similar Loader, 1/4 cu. yd. or less

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper (multi-purpose); Boxman (asphalt plant); Concrete Mixer, skip type; Dinky; Fork Lift (construction jobsite); Line Master; Ross Carrier; Skip Loader (under 1 cu. yd.); Tie Spacer

Group 5: Concrete Mixer (over 1 cu. yd.); Concrete Pumps or Pumpcrete Guns; Elevator and Material Hoist (1 drum); Shuttle Car; Signalman; Screedman (Barber-Greene and similar) (asphalt or concrete paving)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)

Group 6: Boom Truck or Dual Purpose "A" Frame Truck; B.L.H. Lima Road Pactor or similar; Chip Box Spreader (Flaherty type or similar); Concrete Batch Plant (wet or dry); Concrete Saws (highways, streets, airports, canals); Highline Cableway Signalman; Locomotive (over 30 tons); Lubrication and Service Engineer (mobile and grease rack); Maginnis International Full Slab Vibrator (airports, highways, canals, warehouses); Mechanical Burn, Curb and/or Curb and Gutter Machine (concrete or asphalt); Pavement Breaker, truck mounted, with compressor combination; Pavement Breaker or Tamper (with or without compressor combination); Power Jumbo (setting slip-forms, etc., in tunnels); Roller (except asphalt); Self-propelled Tape Machines; Self-propelled Compactor (single engine); Slip Form Pump (power-driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Small rubber-tired tractors; Snooper Crane, Paxton-Mitchell or similar; Stationary Pipe Wrapping, Cleaning, and Bending Machine; Auger-type drilling equipment up to and including 30 ft. depth drilling capacity M.R.C.

Group 7: Bit Sharpener; Compressor (over 2); Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Deck Engineer; Drilling and Boring Machinery, vertical and horizontal (not to apply to Waterliners, Wagon Drills or Jackhammers); Crusher Plant Engineer; Generator; Kolman Loader; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Pipe Bending Machines (pipelines only); Pipe Cleaning Machines (tractor propelled and supported); Pipe Wrapping Machines (tractor propelled and supported); Portable Crushing and Screening Plants; Pumps (over 2); Refrigeration Plants; Roller Operator (asphalt); Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less); Slusher; Soil Tester (certified); Surface Heater and Planer; Trenching Machine (maximum digging capacity 3 ft. depth); Post Driller and/or Driver; Auger-type drilling equipment over 30 ft. depth digging capacity M.R.C.

Group 8: Asphalt Milling Machine; Asphalt Plant Engineer; Car Passer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor; Concrete Batch Plant (multiple units); Dozer; Drill Doctor; Elevating Grader; Gradesetter, Grade Checker; Grooving and Grinding Machine (highways); Heavy-duty Repairman and/or Welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Mechanical Trench Shield; Mixer-mobile; Push Cats; Road Oil Mixing Machine (wood-mixer and other similar Pugmill equipment); Rubber-tired earth-moving equipment (up to and including 35 cu. yds. "struck" M.R.C., Euclid, T-Pulls, DW's 10, 20, 21 and similar); Self-propelled Compactor with Dozer; Hyster 450 or Cat 825 or similar; Sheepfoot; Small Tractor (with boom); Soil Stabilizer (P & H or equal); Timber Skidder (rubber-tired or similar equipment); Tractor-drawn Scraper; Tractor; Tractor-mounted Compressor Drill Combination; Trenching Machine (over 3 ft. depth); Tri-batch Paver; Tunnel Badger or Tunnel Boring Machine; Tunnel Mole Boring Machine; Vermeer T-600B Rock Cutter

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)

Group 9: Chicago Boom; Combination Backhoe and Loader (up to and including 3/8 yds.); Combination Mixer and Compressor (Gunite); Lull Hi-lift (20 ft. or over); Mucking Machine; Subgrader (Gurries or other types); Tractor (with boom) (D6 or larger); Track-laying-type earthmoving machine (single engine with tandem scrapers)

Group 10: Boom-type Backfilling Machine; Bridge Crane; Cary-lift or similar; Chemical Grouting Machine; Derricks; Derrick Barges (except excavation work); Euclid Loader and similar types; Heavy-duty Rotary Drill Rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu. yds. up to and including 4 cu. yds.); Locomotive (over 100 tons) (single or multiple units); Multiple engine Earth-moving Machines (Euclid, Dozers, etc.); Pre-stress Wire-wrapping Machines; Rubber-tired Scraper, self-loading; Single-engine Scraper (over 35 cu. yds.); Self-propelled Reservoir-debris equipment floating (200 H.P. and over); Shuttle Car (reclaim station); Train Loading Station; Trenching Machine, multi-engine with sloping attachments (Jefco or similar); Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons)

Group 10-A: Backhoe (up to and including 1 cu. yd. Hydraulic); Backhoe (up to and including 1 cu. yd. cable); Cranes (not over 25 tons) (Hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Motor Patrol; Power Shovels, Clamshells, Draglines, Cranes (up to and including 1 cu. yd.); Rubber-tired Scraper, self-loading (twin-engine); Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); CMI Dual-lane, Auto-grades SP300 and similar

Group 11: Automatic Asphalt or Concrete Slip-form Paver; Automatic Railroad Car Dumper; Canal Trimmer; Cary Lift, Campbell or similar; Cranes (over 25 tons); Highline Cableway Operator; Loader (over 4 cu. yds. up to and including 12 cu. yds.); Multiple-engine Scraper (when used to push pull); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (over 1 cu. yd. and up to and including 7 cu. yds. M.R.C.); Self-propelled Compactor (with multiple-propulsion power units); Self-propelled boom-type lifting device (over 25 tons M.R.C.); Single-engine Rubber-tired earth-moving machine (with tandem scraper); Slip Form Paver (concrete or asphalt); Tandem Cats and Scrapers; Tower Crane Mobile (including rail-mounted); Universal Liebher and Tower Cranes and similar types; Wheel Excavator (up to and including 750 cu. yds. per hour); Whirley Cranes (over 25 tons); Euclid Loader when controlled from the Pullcat

Group 11-A: Band Wagon (in conjunction with wheel excavators); Loader (over 12 cu. yds.); Multi-engine earthmoving equipment (over 75 cu. yds. "struck" M.R.C.); Operator of Helicopter (when used in construction work); Power Shovels, Clamshells, Draglines, Backhoes, and Gradealls (over 7 cu. yds. M.R.C.); Remote-controlled earth-moving equipment; Wheel Excavator (over 750 cu. yds. per hour)

POWER EQUIPMENT OPERATORS (Cont'd)
PILEDRIVING

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Fork Lift Operator

Group 2-C: A-Frames

Group 2-D: Compressor Operator (over 2); Generator Operator; Pump Operator (over 2); Welding Machine Operator (powered other than by electricity)

Group 3: Deck Engineer; Self-propelled boom-type lifting device (center mount) (10 ton capacity or less M.R.C.)

Group 3-A: Heavy-duty Repairman/Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending Boiler or Compressor attached to Crane Piledriver; Operator of Piledriving Rigs, skid or floating and Derrick Barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) (up to and including 1 cu. yd. rating); Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Truck Crane Operator (up to and including 25 tons) (hoisting material only)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) (over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam-powered Crawler, or Universal-type driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work); Self-propelled boom-type lifting device (center mount) (over 25 tons); Truck-mounted hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons)

Group 6: Cranes (over 125 tons)

POWER EQUIPMENT OPERATORS (Cont'd)
STEEL ERECTION

Group 1: Oiler

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 K.W. or over) (Structural Steel or Tank Erection only); Truck Crane Oiler

Group 3: Compressors, Generators and/or Welding Machines or combination (2 to 6) (Structural Steel or Tank Erection only); Deck Engineer; Signalman (using mechanical equipment); Forklift

Group 4: Heavy-duty Repairman; Tractor Operator

Group 4-A: Combination Heavy-duty Repairman/Welder

Group 5: Boom Truck or Dual Purpose A-Frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 tons M.R.C. or less); Self-propelled boom-type lifting device (center mount) (10 ton capacity or less M.R.C.); Single drum Hoist; Tugger Hoist

Group 6: Cary Lift, Campbell or similar; Crawler Cranes and Truck Cranes (over 15 tons M.R.C.); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Tower Cranes Mobile; Universal Liebher and Tower Cranes (and similar types); Two or more drum Hoist

Group 7: Self-propelled boom-type lifting device (center mount) (over 25 tons); Truck-mounted Hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons)

Group 8: Cranes (over 125 tons)

Group 9: Operator of Helicopter

TRUCK DRIVERS

Group 1: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, under 4 yds.

Group 2: Bus and Manhaul Drivers, single units, up to 18,000 lbs.; Pick-up Truck and Pilot Cars (jobsite)

Group 3: Bus and Manhaul Drivers, single unit, 18,000 lbs. and over; Winch Trucks and A-Frame Drivers, under 18,000 lbs.; Road Oil Trucks or Bootman; Fuel Truck Drivers; Fuel Man and Fuel Island Man; Truck Oil and Greaser

Group 4: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 4 yards and under 8 yards; Water Truck and Jetting Trucks, up to 2,500 gallons; Flatrack, includes Industrial Lift with mechanical tailgate, single unit 2-axle; Warehouse Clerk

Group 5: Winch Trucks, A-Frame, 18,000 lbs. and over; Lift Jitneys and Fork Lifts

Group 6: Flatrack, includes Industrial Lift with mechanical tailgate, single unit 3-axle

Group 7: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 8 yds. and under 18 yds.; Transit Mix under 8 yds.; Water Trucks and Jetting Trucks, 2,500 gallons and over; Tire Repairman

Group 8: Bootman, combination; Bootman and Road Oiler

Group 9: Transit Mix, 8 yds. and including 12 yds.

Group 10: Dump (single or multiple unit including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 18 yds. and under 25 yds.; Heavy Duty Transport (Highbed); Heavy Duty Transport (Gooseneck Lowbed); Tiltbed or Flatbed Pull Trailers

Group 11: DW 20's and 21's and other similar Cat type, Terra Cobra, LeTourneau Pulls, Tournerocker, Euclid and similar type equipment when pulling Aqua/Pak, Water Tank Trailers and Fuel and/or Grease Tank, Trailer, or other miscellaneous Trailers (except as defined under Dump Trucks)

Group 12: Transit Mix, over 12 yards; Truck Repairman

TRUCK DRIVERS (Cont'd)

Group 13: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 25 yds. and under 60 yds.

Group 14: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 60 yds. and under 75 yds.; Helicopter Pilot (when transporting men or materials)

Group 15: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 75 yds. and under 100 yds.

Group 16: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 100 yds. and over

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

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federal register

Friday
August 6, 1982

Part III

Department of Housing and Urban Development

Office of the Secretary

Annual Publication of Systems of Records

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-82-1143]

Annual Publication of Systems of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Annual Publication of Systems of Records.

SUMMARY: This notice is published to meet the requirements of 5 U.S.C. 552a(e)(4). It serves as the annual publication providing a description of the existence and character of the Department's systems of records.

EFFECTIVE DATE: This notice shall become effective August 6, 1982.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, (202) 755-5320. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Office of the Federal Register most recently published a compilation of Department of Housing and Urban Development (HUD) systems of records at Privacy Act Issuances, 1980 compilation, Volume II, page 1. This compilation can be viewed at depository libraries and Federal Information Centers throughout the country. The Department of Housing and Urban Development (HUD) last published the full text of all its systems of records at 46 FR 54878 (November 4, 1981). The November 4, 1981 publication brought together all HUD systems of records published to become effective through October 5, 1981. This notice incorporates the material published at 46 FR 54878 by reference; brings together all new HUD systems of records which have been published to become effective between October 5, 1981 and July 31, 1982; and brings together all amendments and deletions which have been published to become effective between October 5, 1981 and July 31, 1982. (HUD/NVACP—1 was deleted at 47 FR 18184 (April 28, 1982) effective April 28, 1982.) Additionally, this notice updates Appendix A which lists the addresses of HUD's Field Offices.

There are a number of routine use disclosures which apply to most HUD systems of records. These routine use disclosures are listed below as "General Statement of Routine Uses."

(5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., July 30, 1982.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration.

1. General Statement of Routine Uses.

Routine Use—Law Enforcement

In the event that a system of records maintained by this Department to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Routine Use—Disclosure When Requesting Information

A record from a system of records maintained by this Department may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

Routine Use—Disclosure or Requested Information

A record from a system of records maintained by this Department may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Routine Use—Disclosure To OMB

The information contained in a system of records will be disclosed to the Office of Management and Budget in connection with review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular, and for the purpose of evaluating the Department's credit and debt collection activities to further the goal of the President's Management Improvement Council.

Routine Use—Disclosure Pursuant to Congressional Inquiry

Disclosures may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

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HUD/DEPT—2

SYSTEM NAME:

Accounting Records.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mortgagors; mortgagees; grant/project and loan applicants and recipients; HUD personnel; vendors; brokers; bidders; managers; tenants; individuals within Disaster Assistance Programs; builders, developers, contractors, and appraisers; individuals writing to the Department; employees on HUD/FHA projects; investors; subjects of audit; closing agents; former mortgagors and purchasers of HUD-owned properties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lease and loan collection register; schedules of payments receivable and received; premiums due; claim files and fee billing statements; escrow and Certificates of Deposit files; cash flow and budget control files; earnest money register; purchase order log; imprest fund; area managers' accounting records; restitution, maintenance, and market expenses; distributive shares records; salary; savings bonds; bills of lading; vouchers; invoices; receipts;

cancelled checks; mortgages, builders and contractors financial statements, records and audit reports; requests for termination of home mortgage insurance; deposit and receipt records; detailed accounting reports concerning diversified payments, disbursements, and cancelled checks; repurchases of mortgages; adjustments from recoveries, manual adjustments, and defaults; acquired home property records; sales closing papers; statements of accounts; tax records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

See 113 of the Budget and Accounting Act of 1950 31 U.S.C. 66a. (Pub. L. 81–784).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Users paragraphs in prefatory statement. Other routine uses: U.S. Treasury—for disbursements and adjustments thereof: Internal Revenue Service—for reporting of sales commissions and to obtain current mailing address; General Accounting Office, General Services Administration, Department of Labor, Local housing authorities, and taxing authorities—for audit, accounting and financial reference purposes; mortgagee lenders—for accounting and financial reference purposes; HUD contractor—for mortgage note servicing.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Desks; safes; locked filing cabinets; central files; book cases; ledger trays and binders; tables; magnetic tape/disc/drum.

RETRIEVABILITY:

By Social Security number; name; case file number; schedule number; audit number; control number; receipt number; voucher number; contract number; address.

SAFEGUARDS:

Security checks, limited authorization and access, security guards; computer records are maintained in secure areas with access limited to authorized personnel and technical restraints employed with regard to accessing the records.

RETENTION AND DISPOSAL:

GSA schedules of retention and disposal; destruction after six months; transfer to either a Federal Records Center or Archives.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURE:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Department Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410

RECORD SOURCE CATEGORIES:

Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; private corporations or firms doing business with HUD; Federal and non-federal governmental agencies; HUD personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

HUD–DEPT—22

SYSTEM NAME:

Housing Counseling.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A. In addition to these offices, HUD-approved counseling agencies in many cities, both voluntary and paid by the Department, maintain files of this type. To determine whether such an agency exists in a particular city, contact the nearest HUD field office shown in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records of individuals who have been referred but not counseled; individuals who have been or are receiving counseling and assistance with housing problems and related family and financial problems, as well as individuals seeking general and consumer information.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of dates of counseling, summaries of aid furnished the individual being counseled, correspondence with or on behalf of the individual being counseled, standard forms, letters and reports, purchase and financial data, medical history, employment information and problems, family composition, referral information and specific family and/or individual problems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 106(a) of the 1968 Housing Act; 12 U.S.C. 1701x.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to HUD-approved counseling agency staff for the purpose of providing supportive counseling services to meet the short and long term needs of the individual being counseled. Financial institutions servicing HUD insured or assisted loans; local housing authorities; rental agents and managers; real estate brokers, agents and creditors have access only to current financial, employment and family composition data regarding persons currently being counseled. Data available to these institutions and individuals in such circumstances is limited to: savings/checking/credit union account records, commercial credit reports, and credit account records with utility companies, retail stores, and other commercial credit sources; specific employment information concerning name and address of employer, length of service, and salary; and family composition data through the authorized counseling agency or HUD staff. Community service agencies to which the individual being counseled is referred for additional supportive services have limited access to information appropriate to the reason for referral only through authorized counseling agency staff.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in paper files which are kept in standard lockable file cabinets and desks.

RETRIEVABILITY:

Records are retrievable by name, case number, or property address.

SAFEGUARDS:

During the counseling process and the retention period, records are maintained in confidential files with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Counseling records are maintained by the counseling agency for as long as the individual being counseled participates in the program and up to five (5) years thereafter. The Department may maintain summary records of the counseling for as long as the individual being counseled lives in HUD-insured or assisted property.

SYSTEM MANAGER AND ADDRESS:

Director, Single Family Loan Servicing Division, HSSL
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officers, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Information in this system of records is: (1) Supplied directly by the individual, and/or (2) supplied by a member of the individual's family, and/or (3) supplied by mortgages, employers (past and present), creditors and credit reports, landlords (both public and private) and/or (4) supplied by sources to whom the individual being counseled has been referred, or has gone to for assistance, and/or (5) derived from information supplied by the individual, and/or (6) supplied by Department officials and/or (7) supplied by program counselors.

HUD–DEPT–28

SYSTEM NAME:

Property Improvement and Manufactured (Mobile) Home Loans—Default.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Manufactured (mobile) home and home improvement loan debtors who are delinquent or in default on their loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, credit applications, social Security Number where available, case histories of borrowers; records of payment; financing statements; notes; mortgages and other evidences of indebtedness; delinguent and defaulted loan records and account cards; collection and field reports; records of claims and chargeoffs; creditor requests for collection assistance; justifications for closing collection action; related correspondence and documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title I, Sec. 2, National Housing Act, 12 U.S.C. 1703; Federal Claims Collection Act of 1966 (Sec. 1, Pub. L. 89–508).

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Use paragraphs in prefatory statement. Other routine uses: Department of Justice—for prosecution of fraud revealed in the course of claims collection efforts and for the institution of suit or other proceedings to effect collection of claims; FBI—investigation of possible fraud revealed in the course of claims collection efforts; General Accounting Office—for audit purposes; private employers and Federal agencies—to facilitate collection of claims against employees; Office of Personnel Management—for offsetting retirement payments; consumer reporting and commercial credit agencies—to facilitate claims collection consistent with Federal Claims Collection Standards, 4 CFR 102.4; to financial institutions that originated or serviced loans—to give notice of disposition of claims; to title insurance companies—for payment of liens; to local recording offices—for filing assignments of legal documents, satisfactions, etc.; to bandruptcy courts—for filing of proofs of claim; to HUD Contractor—for debt servicing; and to state motor vehicle agencies and Internal Revenue Service—to obtain current addresses of debtors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Claim number, name or other identification number.

SAFEGUARDS:

Manual files are kept in lockable cabinets or rooms; automated records are maintained in secured areas. Access to either type of record is limited to authorized personnel.

RETENTION AND DISPOSAL:

Files are partly active and partly historical and are disposed of in accordance with HUD Handbook 2225.6, Records Disposition Management: HUD Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Title I Insured Loans, HSI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual; current and previous employers; credit bureaus; financial institutions; business firms; federal and non-federal agencies; law enforcement agencies; title companies and abstractors; bankruptcy courts.

HUD–DEPT-–34

SYSTEM NAME:

Pay and Leave Records of Employees.

SYSTEM LOCATION:

All Department offices. For a complete listing of offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and separated HUD employees

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number and employee number, grade, step, and salary; organization, retirement or FICA data as applicable; Federal, state and local tax deductions; regular and optional Government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments by type and amount; financial institution code and employee account number; leave status and data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability; sick, transferred, and without pay); time and attendance records, including sign in/sign out sheets and related documentation, leave applications and reports, individual daily time reports, adjustments to time and attendance, overtime reports, supporting data, such as medical certificates, number of regular, overtime, holiday, Sunday and other hours worked; pay period number and ending dates; cost of living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; "Notification of Personnel Actions" Congressional requests or inquiries on the pay/leave problems of employees; court orders; personnel/payroll data requests; information about the problem received from the employee, an Administrative Office, or from a Personnel employee, including supporting documentation; written correspondence pertaining to pay/leave problems; and related information or documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses; Transmittal of data to U.S. Treasury to effect issuance of paycheck to employees and distribution of pay according to employee directions for saving bonds, allotments, financial institutions and other authorized purposes. Annual reporting of W-2 statements to Internal Revenue Service, Social Security Administration, the individual, and taxing authorities of States, the District of Columbia, territories, possessions, and local government, except Social Security Numbers will be reported only to such authorities that have satisfied the requirements set forth in Section 7(a)(2)(B) of the Privacy Act of 1974. To the Office of Personnel management concerning pay, benefits, retirement deductions, and other information necessary for the Office to carry on its Government-wide personnel functions; To GAO—for audit and to resolve employee appeals on pay/leave decisions; to other Federal government agencies—to facilitate employee transfers; to State agencies—to verify workmen's compensation injury claims; time and attendance data—to contractor for scanning, keying, producing error lists, and producing input media.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual, machine-readable and magnetic media.

RETRIEVABILITY:

Name of employee; Social Security Number.

SAFEGUARD:

Physical, technical, and administrative security is maintained with all storage equipment and/or rooms locked when not in use. Addmittance, when open, is restricted to authorized personnel only. All personnel who handle or maintain records as a part of their official duties are instructed and cautioned on the confidentialty of the records. Manual files kept in lockable desks, file cabinets and safes.

RETENTION AND DISPOSAL:

Retained on site until after GAO audit, then disposed of, or transferred to Federal Records Storage Centers in accordance with fiscal records program approval by GAO, as appropriate, or General Records Schedules of GSA. Generally, records on employee pay/leave problems are retained in the Personnel Systems and Payroll Division in Headquarters for three years after a decision has been made on the problem. In payroll, the retention schedule for these records is the same as that for employee pay and leave records. In Personnel Offices, problem pay/leave records are retained for six months after a decision has been made on the problem, and then disposed of.

SYSTEM MANAGER(S) AND ADDRESS:

Dierctor, Personnel Systems and Payroll Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropraite location, in accordance with procedures in 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate locationa. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURE:

The Department's rules for contesting the contents of records and appealing initial denials, by the individuala concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting

contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410

RECORD SOURCE CATEGORIES:

Subject individuals, supervisors, timekeepers, official personnel records, previous employers, or other Federal government agencies, Headquarters or Regional Office personnel responsible for solving pay/leave problems, Area and Service Office personnel who have information about pay/leave problems, banks, other financial institutions, and courts.

HUD - DEPT—42

SYSTEM NAME:

Rent Subsidy Program Files.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Low-rent housing applicants and recipients under Section 236 and Rent Supplement and Section 221(d)(3) BMIR programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for rent subsidy and recertifications include name, address, telephone number, race, household composition, employment data, detailed financial information, monthly rent payment and supplement calculations, HUD review and certification, description of rental unit participant will occupy; subsidized tenant move-out records; verification of employment, income and bank deposits, credit bureau reports; and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 201 of the Housing and Community Development Amendments of 1978, (12 U.S.C. 1715z–1a), Sec. 101 of the Housing Act of 1965 (12 U.S.C. 1701s), and Section 101(11) of the Housing Act of 1961, (12 U.S.C. 171SL).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to General Accounting Office—for purposes of audit: to IRS—for investigation; to local and state housing authorities—for reference purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In files, folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name; case file number.

SAFEGUARDS:

Limited access; lock file cabinets; security checks and limited authorization to secured computer facilities.

RETENTION AND DISPOSAL:

Files are active and kept up-to-date; partly current and partly historical. Files are either sent to GSA Federal Record Center for storage or disposed of in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Program Planning Division, HMHO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contacting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W. Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; federal government agencies; non-federal government agencies; project and project managers.

HUD–DEPT—53

SYSTEM NAME:

Consumer Complaint Handling System.

SYSTEM LOCATION:

Headquarters and Field Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any member of the public who registers a complaint with HUD, including but not limited to: Community Development Block Grant (CDBG) recipients or individuals who use facilities or services supported by CDBG money; mortgagors; mortgagees having or seeking FHA-insured mortgages; tenants in FHA/insured projects; tenants in HUD-supported Low Rent Housing Projects; employees on HUD-assisted or insured construction projects and their unions; and public interest groups. Excluded are complaints from HUD employees arising out of the administration of internal HUD policies or procedures.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complaints expressing dissatisfaction with a Departmental program, policy, or service. Name of complainant and action dates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Housing and Community Development Act of 1974, Pub. L. 93–383.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: the following may receive individual records to assist in the resolution of a complaint—State and local officials; public and private counseling agencies; building associations; developers; financial institutions holding HUD-insured mortgages; Federal, State and local Consumer Affairs offices; Consumer Protection agencies; State and local real estate and planning Commissions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders, cassettes, computerized tape, disc, and drum.

RETRIEVABILITY:

Control number, date of receipt, name of complainant, date of complaint, date

of final reply, nature of complaints HUD program category, assigned due date, date of interim reply, date of last update on the System, and HUD Office to which complaint was referred for action.

SAFEGUARDS:

Access to the automated System is accomplished by passwords and code identification codes limited in use to authorized personnel. Cassettes and computer/data files will be stored in computer facilities which are secured and accessible only to authorized personnel. File folders of pending and closed cases to be stored in lockable file cabinets.

RETENTION AND DISPOSAL:

Manual file is closed upon final response and purged after one year. Automated records are maintained for five years. Complaints pending response will remain open and active until final response is sent. Obsolete records will be disposed of in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant secretary for Housing—Federal Housing Commissioner Department of Housing and Urban Development 451 Seventh Street, S.W. Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents or records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Department Privacy Appeals Officer, Office of General Counsel Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Letters of complaints from individuals, telephone calls of complaints from individuals, and walk-in complaints from individuals, and consumer oriented agencies on behalf of individuals.

HUD-DEPT—61

SYSTEM NAME:

Mobile Home Standards Complaint, Production and Compliance Analysis System.

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consumers who have registered complaints regarding mobile homes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, telephone number of purchaser, information on mobile home purchased (make, model, serial number, date of purchase, location, dealer's name, and complaints or problems).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine uses paragraphs of prefatory statement. Other routine uses: to HUD-approved State Administrative Agencies who participate in enforcement of the Federal Mobile Home Construction and Safety Standards Program—for assisting in the enforcement of the Mobile Home Construction and Safety Standards Act, and handling of consumer complaints.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders, card boxes, and on magnetic tape/dis/drum.

RETRIEVABILITY:

By purchaser name; by mobile home make, model, serial number, date of purchase, location, dealer's name, complaint or problem.

SAFEGUARDS:

Manual records are kept in lockable file cabinets; computer records are maintained in secured facilities. Access to either type of record is limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained during active status, a period not to exceed five years. Following the active period, hardcopy records may be disposed of or retired to a Federal Records Center. Automated data will be erased or retired to storage.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Manufactured Housing and Construction Standards, HC Department of Housing and Urban Development 451 Seventh Street, S.W. Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURE:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location if given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals who have registered complaints.

HUD—DEPT—64

SYSTEM NAME:

Congregate Housing Services Program Data Files.

SYSTEM LOCATION:

Headquarters and Offices of HUD contractor.

CATEGORIES OF INDIVIDUALS COVERED BY SYSTEM:

Congregate Housing Services Program (CHSP) participants and selected applicants and non-applicants residing in grantee public housing and Section 202 (elderly) projects; and selected individuals residing in non-grantee public housing and Section 202 projects.

CATEGORIES OF RECORDS IN THE SYSTEM:

The files will contain the following records on CHSP participants: Name, project, file number, race/ethnic background, birthdate, sex, marital status, residential history and current living arrangement, number of minors residing, number of children/relatives nearby and family relationships, education, socioeconomic status (occupation/income), total housing expense, characteristics (special features) of the Housing unit, size of unit, sources of income and medical coverage, handicap type, disability type, medical status (recurrent/chronic medical problems) and hospitalization in past year, scores on activities of daily living tests, level of informal service supports (family, friends, etc.), current and previous services received by program type (formal services), dates of services receipt, service needs assessment, moral scale and satisfaction with services and residential arrangements, mental status (primarily, disorientation for elderly and cognitive functioning for mentally retarded), emotional status, social interaction assessment (participation in formal and informal activities, and interpersonal skills), cost and usage of CHSP and other services, project admission date, CHSP application date, physical functioning/health status when entered project, current physical functioning/health status, physical functioning/health status of entry to CHSP, Professional Assessment Committee (PAC) determinations and recommended services, physical functioning/health status when left CHSP, date moved out of project, physical functioning/health status when moved out of project, new address/telephone (or contact person), name/telephone of physician, legal guardian, or family member.

The files will contain the following records on CHSP applicants who were not selected as participants: Name, project, file number, race/ethnic background, birthdate, sex, marital status, resident history and current living arrangement, number of minors residing, number of children/relatives nearby and family relationships, education, socioeconomic status (occupation/income), total housing expense, characteristics (special features) of the housing unit, size of unit, sources of income and medical coverage, handicap type, disability types, medical status (recurrent/chronic medical problems) and hospitalization in past year, scores on activities of daily living tests, level of informal service supports (family, friends, etc.), current and previous services received by program type (formal services), dates of service receipt, service needs assessment, morale scale and satisfaction with services and residential arrangements, mental status (primarily, disorientation for elderly and cognitive functioning for mentally retarded), emotional status, social interaction assessment (participation in formal and informal activities, and interpersonal skills), cost and usage of services, project admission date, CHSP application date, physical functioning/health status when entered project, physical functioning/health status when applied to CHSP, current physical functioning/health status, PAC determinations, date moved out of project, physical functioning/health status when moved out of project, new address/telephone (or contract person), name/telephone of physician, legal guardian, or family member.

The files will contain the following records on residents of CHSP projects who did not apply to the program and residents of non-CHSP projects: name, project, file number, race/ethnic background, birthdate, sex, marital status, residential history and current living arrangement, number of minors residing, number of children/relatives nearby and family relationships, education, socioeconomic status (occupation/income), total housing expense, characteristics (special features) of the housing unit, size of unit, sources of income and medical coverage, handicap type, disability type, medical status (recurrent/chronic medical problems) and hospitalization in past year, scores on activities of daily living tests, level of informal service supports (family, friends, etc.), current and previous services received by program type (formal services), dates of service receipt, service needs assessment, morale scale and satisfaction with services and residential arrangements, mental status (primarily, disorientation for elderly and cognitive functioning for mentally retarded), emotional status, social interaction assessment (participation in formal and informal activities, and interpersonal skills), cost and usage of services, project admission date, physical functioning/health status when entered project, current physical functioning/health status, date moved out of project, physical functioning/health status when moved out of project, new address/telephone (or contact person), name/telephone of physican, legal guardian, or family member.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV, Housing and Community Development Amendments of 1978 [Congregate Housing Services Act of 1978].

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To HUD Contractor for conducting the evaluation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name, project, file number, race/ethnic background, birth date, sex, marital status, residential history and current living arragement, number of minors residing, number of children/relatives nearby and family relationships, education, socioeconomic status (occupation/income), total housing expense, characteristics (special features) of the housing unit, size of unit, sources of income and medical coverage, handicap type, disability type, medical status (recurrent/chronic medical problems) and hospitalization in past year, scores on activities of daily living tests, level of informal service supports (family, friends, etc.), current and previous services received by program type (formal services), dates of service receipt, service needs assessment, morale scale and satisfaction with services and residential arrangements, mental status, emotional status, social interaction assessment (participation in formal and informal activities, and interpersonal skills), cost and usage of CHSP and other services, project admission date, CHSP application date, physical functioning/health status when entered project, current physical functioning/health status, physical functioning/health status at entry to CHSP, PAC determinations and recommended services, physical functioning/health status when left CHSP, date moved out of project, physical functioning/health status when moved out of project, new address/telephone (or contact person), name/telephone of physician, legal guardian, or family member.

SAFEGUARDS:

Manual files will be kept in lockable cabinets in a secured area, computer records will be maintained in a separate secured area. Access to either type of

record will be limited to authorized personnel.

RETENTION AND DISPOSAL:

Manual and automated records are retained in accordance with officially approved mandatory standards contained in HUD handbooks 2225.6 and 2228.2.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Elderly, Cooperative, Congregate and Health Facilities Divsion, HMME
Office of Mutifamily Housing Development
Department of Housing and Urban Development 451 Seventh Street, S.W. Washington, D.C. 20410

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD's Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, Professional Assessment Committee, Project Managers.

HUD—DEPT—71

SYSTEM NAME:

Employee Identification File.

SYSTEM LOCATION:

Headquarters and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current Departmental employees and former employees who have been separated from the Department for six months or less.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in the system include employee photograph, name and signature, Social Security Number, identification card issuance date, type of appointment, date of birth, sex, height, weight, color of hair, and color of eyes, and may include requisition for employee identification card.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To Federal, State, local, and foreign authorities for use in conducting criminal, civil, or regulatory investigations, to verify the identity of an employee.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders or card files.

RETRIEVABILITY:

By name.

SAFEGUARDS:

The records are kept in locked metal file cabinets.

RETENTION AND DISPOSAL:

These records are retained and disposed of in accordance with approved schedules contained in HUD Handbook 2228.2, General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Systems and Payroll Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records of the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Individuals on whom the file is maintained.

HUD–DEPT—76

SYSTEM NAME:

HUD Employee Locator Files.

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former HUD employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records are comprised of a copy of all Changes in Telephone Listings, SF–146, submitted by Administrative Officers. The following data will be included in the records: Name of employees, office telephone number, room number and location, and organization symbol.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media and file folders.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

The automatic records and manual files are kept in a secured area, with access limited to authorized personnel.

RETENTION AND DISPOSAL:

These records are disposed of in accordance with the Mandatory General Records Schedules contained in HUD Handbook 2228.2, General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Publications and Information Division, Office of Administrative Services, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contracting the Privacy Act Officer at the Headquarters location. This location is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Administrative Officers.

HUD–H–8

SYSTEM NAME:

Property Rental Files.

SYSTEM LOCATION:

HUD field offices and HUD Area Management Brokers (AMBs) under the jurisdiction of the HUD field offices. For a complete listing of HUD field offices with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Occupants (prospective, current and former) of one to four-family properties which HUD expects to acquire, generally as a result of foreclosure, or has acquired or of which HUD expects to or has taken possession.

CATEGORIES OF RECORDS IN THE SYSTEM:

The files consist of documents pertaining to request for continuned occupancy, rental applications, and rent payment. The documents will include leases and rental information if the properties are being conveyed or transferred to HUD subject to occupancy; individuals' names, addresses, telephone numbers, identifying numbers such as Social Security Numbers, (if available) income, circumstances of employment, expenses, liabilities, and personal and credit references, and records of rents paid and owed while tenants of HUD, and related correspondence. Also, pursuant to 24 CFR 203.670, where individuals seek to qualify for continued occupancy of a property to be conveyed to HUD because of an illness or injury, certain documentation pertaining to the validity of the individuals' claims will be maintained in these files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Housing Act of 1937 as amended (Pub. L. 75–412).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See routine uses paragraph in prefatory statement. Other routine uses: Consumer reporting and commercial credit agencies—to facilitate claims collection consistent with Federal claims collection standards, 4 CFR 102.4, to State motor vehicle agencies and Internal Revenue Service—to obtain current addresses of debtors, to attorneys hired by the Department in connection with eviction related activities—to facilitate eviction related activities, to collection agencies hired by the Department—to collect delinquent rent, to prospective purchasers of tenant occupied properties—to provide them rent rolls and income and expense data, and to HUD's Area Management Brokers (AMBs)—to permit them to perform their property management responsibilities.

POLICIES, AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Case file number, property address, and name of tenant.

SAFEGUARDS:

Desk, file cabinets kept in a secured area. Access restricted to authorized individuals.

RETENTION AND DISPOSAL:

Obsolete records are destroyed or sent to storage facility in accordance with HUD Handbook 2225.6, Records Disposition Management: HUD Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Single Family Property Disposition Division, HSSP, Office of Single Family Housing, Department of Housing and Ubran Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contests of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, other individuals, current or previous employers credit bureaus, financial institutions, other corporations or firms, Federal government agencies; non-Federal (including foreign, State and local) government agencies, real estate brokers and agents.

HUD-H—9

SYSTEM NAME:

Project Management Records.

SYSTEM LOCATION:

Headquarters, HUD Field Offices and HUD Project Managers under the jurisdiction of the HUD Field Offices. For a complete listing of HUD Field Offices with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Occupants (prospective, current and former) of multifamily projects (five or more units) which HUD expects to acquire, generally as a result of foreclosure, or has acquired, or of which HUD expects to or his taken possession.

CATEGORIES OR RECORDS IN THE SYSTEM:

The records consist of documents pertaining to rental applications and rent payments. The documents include leases and rental information if the projects are being conveyed or transfered to HUD; individuals' names, addresses, telephone numbers, identifying numbers such as Social Security Numbers (if available), income, circumstances or employment, expenses, liabilities, and personal and credit references, and records of rents paid and owed while tenants of HUD: and related information and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

U.S. Housing and Urban Development Act, 42 U.S.C. 3535(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine uses paragraph in prefatory statement. Other routine uses: Consumer reporting and commercial credit agencies—to facilitate claims collection consistent with Federal claims collection standards, 4 CFR 102.4; to Federal, State and local governmental organizations—to verify information provided on applications to expose fraudulent information; to HUD project managers—to permit them to perform their property management functions; to State motor vehicle agencies and Internal Revenue Service—to obtain current addresses to debtors; to attorneys hired by the Department in connection with eviction related activities—to facilitate eviction related activities; to collection agencies hired by the Department—to collect delinquent rent; and to prospective purchasers of tenant occupied properties—to provide them rent rolls and income and expense data.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic tape, disc or drum.

RETRIEVABILITY:

Project number, project address, and name of tenant.

SAFEGUARDS:

Desk, file cabinets kept in secured area. Computer records are maintained in secured areas with technical restraints employed with regard to accessing records. Access restricted to authorized individuals.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with the mandatory General Records Schedules contained in HUD Handbook 2228.2. Project records are conveyed to purchasers of the projects.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Multifamily Financing and Preservation, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURE:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Tenants and prospective tenants.

Appendix A.—Officials To Receive Inquiries Requests for Access and Requests for Correction or Amendment

Headquarters

Privacy Act Officer, 451 Seventh Street SW., Washington, D.C. 20410

Region 1

Regional Administrator, Room 800, John F. Kennedy Federal Building, Boston, Mass. 02203

Area Offices

Area Manager, Bulfinch Building, 15 New Chardon Street, Boston, Mass. 02114.
Area Manager, One Hartford Square West, Suite 204, Hartford, Conn. 06106

Service Offices

Supervisor, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03103
Supervisor, Room 330, John O. Pastore Federal Building, U.S Post Office, Kennedy Plaza, Providence, Rhode Island 02903

Valuation/Endorsement Stations

Supervisor, Federal Building and Post Office, 202 Harlow Street, Bangor, Maine 04401
Supervisor, 110 Main Street, P.O. Box 989, Burlington, Vermont 05402

Region II

Regional Administrator, 26 Federal Plaza, New York, New York 10278

Area Offices

Area Manager, Mezzanine, Statler Building, 107 Delaware Avenue, Buffalo, New York 14202
Area Manager, 26 Federal Plaza, New York, New York 10278
Area Manager, Gateway I Building, Raymond Plaza, Newark, New Jersey 07102

Caribbean Area Office

Area Manager, Federico Degetau Federal Building, U.S. Courthouse, Room 428, Carlos E. Chardon Avenue, Hato Rey, Puerto Rico 00918

Service Offices

Supervisor, Leo W. O'Brien Federal Building, North Pearl Street and Clinton Avenue, Albany, New York 12207.
Supervisor, The Parkade Building, 519 Federal Street, Camden, New Jersey 08103

Region III

Regional Administrator, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106

Area Offices

Area Manager, The Equitable Building, Third Floor, 10 North Calvert Street, Baltimore, Maryland 21202
Area Manager, Curtis Building, 625 Walnut Street, Philadalphia, Pa 19106
Area Manager, Fort Pitt Commons, 445 Fort Pitt Blvd., Pittsburgh, Pennsylvania 15219
Area Manager, 701 East Franklin Street, Richmond, Virginia 23219

Area Manager, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. 20009

Service Office

Supervisor, Kanawha Valley Building, Capitol and Lee Streets, Charleston, West Virginia 25301

Valuation/Endorsement Station

Supervisor, 800 Delaware Avenue, Rm. 511, Wilmington, Delaware 19801

Region IV

Regional Administrator, Richard B. Russell, Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303

Area Offices

Area Manager, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303
Area Manager, Daniel Building, 15 South 20th Street, Birmingham, Alabama 35233
Area Manager, Strom Thurmond Federal Building, 1835–45 Assembly Street, Columbia, South Carolina 29201
Area Manager, 415 N. Edgeworth Street, Greensboro, North Carolina 27401
Area Manager, Federal Building, 100 W. Capital St., Suite 1016, Jackson, Mississippi 39201
Area Manager, 325 West Adams St., Jacksonville, Florida 32202
Area Manager, One Northshore Building, 1111 Northshore Drive, Knoxville, Tennessee 37919
Area Manager, 539 River City Mall, P.O. Box 1044, Louisville, Kentucky 40204

Service Officers

Supervisor, 3001 Ponce de Leon Boulevard, Coral Gables, Florida 33134
Supervisor, Federal Building, 700 Twiggs Street, Post Office Box 2097, Tampa, Florida 33601
Supervisor, Federal Office Building, 80 N. Hughey, Orlando, Florida 32801
Supervisor, 28th Floor, 100 North Main Steeet, Memphis, Tennessee 38103
Supervisor, One Commerce Place, Suite 1600, Nashville, Tennessee 37219

Region V

Regional Administrator, 300 South Wacker Drive, Chicago, Illinois 60606

Area Offices

Area Manager, 1 North Dearborn Street, Chicago, Illinois 60602
Area Manager, New Federal Building, 200 North High Street, Columbus, Ohio 43215
Area Manager, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226
Area Manager, 151 North Delaware Street, Indianapolis, Indiana 46207
Area Manager, 744 North 4th Street Milwaukee, Wisconsin 53203
Area Manager, Bridge Place Building, 220 Second Street, South, Minneapolis, Minnesota 55401

Service Offices

Supervisor, Federal Office Building, 550 Main Street, Cincinnati, Ohio 45202
Supervisor, 777 Rockwell Avenue, Cleveland, Ohio 44114
Supervisor, Northbrook Building Number II, 2922 Fuller Avenue, N.E., Grand Rapids, Michigan 49505
Supervisor, Genesee Bank Building, Room 200, 352 South Saginaw Street, Flint, Michigan 48502

Valuation/Endorsement Station

Supervisor, Lincoln Tower Plaza, 524 South Second Street, Springfield, Illinois 62701

Region VI

Regional Administrator, 221 West Lancaster St., Fort Worth, Texas 76113

Area Offices

Area Manager, 1403 Slocum St., P.O. Box 2005D Dallas, Texas 75207
Area Manager, Savers Building, 320 West Capitol, Suite 700, Little Rock, Arkansas 72201
Area Manager, Plaza, Tower, 1001 Howard Avenue, New Orleans, Louisiana 70113
Area Manager, 200 N.W. Fifth Street, Oklahoma City, Oklahoma 73102
Area Manager, Washington Square, 800 Dolorosa, Post Office Box 9163, San Antonio, Texas 78285

Service Offices

Supervisor, 221 West Lancaster St., Fort Worth, Texas 76113
Supervisor, Two Greenway Plaza East, Suite 200, Houston, Texas 77046
Supervisor, Federal Building, 1205 Texas Avenue, Lubbock, Texas 79408
Supervisor, 625 Truman Street, N.E., Albuquerque, New Mexico 87110
Supervisor, New Federal Building, 500 Fannin St., Shreveport, Louisiana 71101
Supervisor, 440 South Houston Avenue, Tulsa, Oklahoma 74127

Region VII

Regional Administrator, Professional Bldg., 1103, Grand St., Kansas City, Missouri 64106

Area Offices

Area Manager, Professional Building 1103 Grand St., Kansas City, Missouri 64106
Area Manager, Univac Building, 7100 West Center Road, Omaha, Nebraska 68106
Area Manager, 210 North Tucker Boulevard, St. Louis, Missouri 63101

Service Office

Supervisor, Room 259, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309

Valuation/Endorsement Station

Supervisor, 444 S.E. Quincy Street, Topeka, Kansas 66683

Region VIII

Regional Administrator, Executive Tower Building, 1405 Curtis Street, Denver, Colorado 80202

Service Offices

Supervisor, Federal Office Bldg., Rm. 340, Drawer 10095, 301 South Park, Helena, Montana 59626
Supervisor, 125 South State Street, Salt Lake City, Utah 84111

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Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Change to HUD 4900.1 Minimum Property Standards for One- and Two-Family Dwellings; Final Rule; Incorporation by Reference

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-80-857]

Change to HUD 4900.1 Minimum Property Standards for One- and Two-Family Dwellings

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

ACTION: Final rule; incorporation by reference.

SUMMARY: This revision is made to incorporate appropriate portions of the current Model One- and Two-Family Dwelling Code into the Minimum Property Standards (MPS) for One- and Two-Family Dwellings and to remove criteria from the MPS that do not bear directly on health, life safety, legislative requirements, or durability. This Rule also reduces the bulk of the standards, updates many standards and transfers other standards to other Departmental issuances.

EFFECTIVE DATE: September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Donald R. Fairman, Construction Standards Division, Department of Housing and Urban Development, 451 7th Street, SW., Room 6164, Washington, D.C. 20410, telephone (202) 755-5718. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: HUD MPS for One- and Two-Family Dwellings, 4900.1, is published pursuant to HUD regulations at 24 CFR Part 200, Subpart S.

Although published separately, all MPS's are incorporated by reference into the regulations (24 CFR 200.927). HUD regulations contemplate periodic updating and revision of the MPS through informal rulemaking procedures including publication in the Federal Register (24 CFR 200.933). This notice promulgates a final rule adopting substantial revisions to the MPS for One- and Two-Family Dwellings and republishing 4900.1, as revised, as a whole.

Notice of all substantive changes in the MPS are required by 24 CFR 200.933 to be published in the Federal Register using the same procedure as for the publication of regulations. The proposed changes to the MPS 4900.1 are available for examination in all HUD Field Offices and in Headquarters Room 6164, Office of Manufactured Housing and Construction Standards, Construction Standards Division, at the above address during regular business hours.

HUD's MPS are composed of design, construction and amenities criteria used to determine the acceptability of new residential construction for a number of HUD programs. These programs include mortgage insurance, public housing, and Section 8 programs other than Existing Housing and Moderate Rehabilitation. There are Minimum Property Standards which are applicable to One- and Two-Family Dwellings (4900.1), Requirements for Existing Housing, One to Four Family Units (Handbook 4905.1), Multifamily Dwelling (4910.1), and Care-type Dwellings (e.g. nursing homes) (4920.1)

This revision concerns the MPS for One- and Two-Family Dwellings. It eliminates livability and marketability criteria from the MPS, while retaining criteria bearing directly on health, safety, statutory requirements or durability. In addition, various particular criteria are replaced with similar or equivalent requirements from the current Model One- and Two-Family Dwelling Code.

Background

From the time the Proposed Rule to revise the MPS for One- and Two-Family Dwellings was published in September 1980 until the present, the Department has carefully reexamined the role and scope of the MPS in the light of the comments received on the Proposed Rule, the report on the proposal of the Regulatory Analysis Review Group of the Council on Wage and Price Stability, the recommendations of the Presidential Task Force for Deregulatory Relief, the President's Commission on Housing, and the National Institute of Building Sciences (NIBS) report entitled, "Federal Regulations Impacting Housing and Land Development".

On November 17, 1980, the Regulatory Analysis Review Group of the Council on Wage and Price Stability submitted its report on the Proposed Rule to the Department. Among the recommendations in this report were that HUD should (1) "examine whether more extensive changes (are) warranted * * * in the light of alternative market forces and government programs which may achieve the same ends" and (2) "examine afresh * * * the basic underlying rationale for the MPS." The Group urged HUD to "examine whether an appraisal alone would protect FHA's, VA's and FmHA's financial interests as well as, or better than, the MPS and at a lower cost."

On March 15, 1981, the Presidential Task Force on Regulatory Relief identified the MPS for One- and Two-Family Dwellings and the MPS for Multifamily Housing as appropriate targets for deregulatory review. Noting the Department's published proposal to delete livability and marketability criteria from the MPS for One- and Two-Family Dwellings, the Task Force commented:

"* * * An expanded review would examine whether much more extensive deletions may be in order. For numerous objectives of the MPS, alternate government programs and private market forces (e.g., local building codes, homebuilders' warranties) may achieve the same purposes. No improvements in the MPS for Multifamily Dwellings have been proposed to date, but there appear to be equally strong grounds for a comprehensive review of them as well."

(The Department has instituted a separate evaluation and revision of the MPS for Multifamily Housing with the intent of increasing reliance upon compliance with the major national model building codes, and expects to publish, for comments, a proposed rule on this subject in the near future.)

The Department has also considered the Report of the NIBS, entitled "Federal Regulations Impacting Housing and Land Development: Recommendations for Change", released April 15, 1981. This Report recommends that HUD initiate a comprehensive process to phase out the MPS and rely on nationally recognized codes and on state and/or local authorities that have adopted such codes or that have their equivalent to regulate the health and safety aspects of HUD-insured housing and on free market forces to establish acceptable levels for livability and marketability.

More recently, the President's Commission on Housing, in its Final Report, has recommended that HUD, the FmHA, and VA:

"* * * should phase out their use of the Single Family and Multifamily Minimum Property Standards and depend entirely on locally enforced building codes that are consistent with the One and Two Family Dwelling Code or one of the current nationally recognized model building codes * * *

In the absence of such a locally enforced building code, the three agencies should enforce the One and Two Family Dwelling Code or whichever of the current nationally recognized model building codes is most widely used in the immediate area of the individual project."

The Department is now preparing a proposed rule by which the Minimum Property Standards can be replaced by reliance upon local building codes in areas where codes have been adopted or subject to a determination that the locally enforced code is comparable to

the One and Two Family Dwelling Code or a current nationally recognized model building code. The Department expects to publish its proposed rule in this effect in the near future.

Pending the Department's publication of the proposed rule, the Department believes it important and advantageous to conclude the rulemaking proceeding commenced in September 1980 by publication of a final rule.

Proposed Rule

On September 18, 1980, the Department published, as a proposed rule, a complete revision of the MPS for One- and Two-Family Dwellings (45 FR 62316). The stated intent of the proposed revisions was (1) to incorporate appropriate portions of the current Model One- and Two-Family Dwelling Code, (2) remove criteria that do not bear directly on health, life safety, legislative requirements, or durability (i.e., remove "livability" and "marketability" criteria), and (3) reduce the bulk of the standards and update and relocate criteria as appropriate. The proposed revisions also introduced new workmanship criteria into the MPS.

The Department has reevaluated the proposed rule as well as the existing MPS in the light of the reports and recommendations referred to above as well as the comments received on the proposed rule. The Department received 42 written comments on the proposal, dealing with both technical items and the general policy thrust of the rule. Most comments endorsed the policy direction toward simplification and reduction of the standards.

The majority of public comments received during the comment period pertained to provisions other than those affected by this revision. There were comments of substantive as well as editorial nature included in this category. Contrary to the stated intent of the proposed rule, a number of commentors proposed the addition of new requirements. Although some of these proposals could be beneficial to the small scale builders, HUD did not include them in this revision in order to maintain the reduced volume of the MPS.

Other suggestions were related to the needs of specific geographic areas which are not suitable as national criteria.

Some comments questioned the policy of eliminating livability and marketability from the MPS. In this connection, the Department notes that the Valuation Analysis employed in its underwriting process will continue to weigh the marketability and livability criteria. While the MPS are used to determine the acceptability of the property for mortgage insurance, the Underwriting Analysis determines the amount of the insured mortgage. The deletion of requirements from the MPS will not result in the elimination of consideration of marketability and livability from the Department's underwriting judgments.

Some provisions that can be viewed as marketability or livability criteria are also health and safety provisions. After careful deliberation, the Department has concluded it will delete a number of these provisions, most prominently the stairway design requirements, and the exit door and hall dimensions. In the same category are the minimum room size requirements which have been deleted save for the kitchen size, the ceiling height requirement, the prohibition of locks that require the use of a key from the inside, and the requirements for artificial and natural lighting in public spaces. The Department recognizes the health and safety aspects of these standards but believes that these design features are sufficiently obvious to the prospective homeowner to permit reliance upon informed consumer choice. The Department also notes that since every nationally recognized model code and almost every locally adopted building code include stairway, exit door and hall requirements, these elements will continue to be built to a local standard.

As noted above, the proposed rule would have added new workmanship criteria. The Department believes that the inclusion of such criteria in the standards is unnecessary, given the existence of homeowner's warranty programs as well as continuing development of legal doctrine regarding the implied warranty of habitability. Comments also questioned the need for the introduction of workmanship criteria into the MPS. The Department concurs and has deleted these criteria from the final rule.

In the proposed rule, the provisions relating to construction intended for the elderly and physically handicapped were located throughout the MPS in each section where there were additional requirements. For convenience, in the Final Rule, these provisions are all to be found in Chapter 1, section 100–1.2 and 100–1.3.

Substantial portions of chapter 5 of the proposed rule which consisted of descriptive and quoted materials from available reference standards have been eliminated.

Chapter 3, Site Design, will be enforced only in those communities that have not adopted criteria for land use and site development applicable to one and two family dwellings.

These changes, and the Department's response to the technical comments set forth below, were made after careful consideration of the objectives of the MPS, the Federal interest to be protected, and the recommendations made to the Department and the scope of the proposed rule.

Final Rule

Changes from the existing MPS affected by this Final Rule fall within eight general classes which are described below:

1. Removal of some livability and marketability criteria found primarily in Chapters 3 and 4. The provisions removed included, but are not limited to: requirement for orderly and efficient site design quality; consideration of resident social and physical needs in site design such as age and income levels, family composition, and local customs; preservation of good vegetation; site design for optimum climatic comfort; provision of usable outdoor space; building setbacks to mitigate exposure and traffic disturbance; coordination of necessary access to adjoining properties with local plans; separation of public walks from windows for privacy; design for economic construction and maintenance for utilities; use and application of new plant materials; requirements for primary and secondary lawns; provision of laundry drying yards where needed; provision of space for active and passive recreation; provision of appropriate recreation equipment; provision of convenient commercial space when needed, avoiding land use conflicts; provision of bathroom accessories; room sizes (except kitchens), ceiling height, inside locks without keys; provision of bedroom, coat, linen and general storage closets; privacy locks for bathrooms and primary bedrooms; and bedroom to bathroom access without passage through another habitable room; dimensions of doors, halls and stairs; artificial and natural lighting requirements;

2. Replacement of MPS criteria with similar or equivalent requirements from the current Model One- and Two-Family Dwelling Code where appropriate in Chapters 4, 5, and 6. These include, but are not limited to: reduced criteria for kitchen and baths; new garage planning requirements; ventilation for private spaces criteria; equivalent flame spread criteria; more detailed fire safety criteria for foam plastics, similar lumber requirements; and equivalent footing

criteria and equivalent criteria for basement walls;

3. Conditioning of applicability of all site design criteria in Chapter 3 on the absence of locally adopted land use and site development criteria;

4. Elimination of quotations from reference standards in Chapter 5 where material is available from other sources;

5. Updating of some standards;

6. Removal of requirements for existing housing for transfer to HUD Handbook 4905.1;

7. Elimination of program oriented criteria and quantification for handicapped construction from Chapters 3 and 4 for transfer to applicable program literature; and

8. Elimination of requirements for the seasonal homes program from Chapters 1 through 6.

Among the comments received was one suggesting that the approach to metrics conversion employed in the proposed rule does not conform to previously announced Federal policy. While this may be true, current requirements are somewhat general and the industries affected by the MPS have not made a general transition to the metric system. Therefore, the Department does not feel justified in imposing this new burden on the industry through the MPS.

A Federal agency was concerned with a general acceptability criteria (paragraph 202.2) which stated: (proposed addition in *italic*)

Individual utilities serving a living unit shall not pass over, under or through another living unit *unless provision is made for repair and maintenance of utilities without trespass or legal provision is made for permanent access for maintenance and repair of the utilities.*

The Department agrees that utility maintenance from the interior of living units is not desirable where there is individual ownership. However, the MPS are also applicable to rental ownership of rowhouses. Therefore, the phrase "under the same mortgage" has been added in the Final rule after the word "unit" in the second line to clarify this intent. To help reduce the most often experienced problem, the following wording has been added to the end of that paragraph:

Building drain cleanouts shall be accessible from the exterior where a single drain line within the building serves more than one unit.

Some comments questioned whether the field offices should have the authority to make decision relating to marketability and livability. The primary concern these comments addressed was the anticipated development of extreme local requirements. The Department notes that there are no changes from the procedures adopted in May 1980. (Notice 80-14: Special Appraisal and Inspection Directive No. 2—Major Revision of HUD Single-Family Conditional Commitment Processing Procedures), and that no problems have been experienced in the procedures employed. Where a decision is seriously questioned as unreasonable any individual decision can be appealed to higher authority, i.e., the Area Manager, Service Office Supervisor or Washington. If broader problems occur, instructions will be issued to the Field Office. Basically, most of the authority for actual decision on marketability and livability has been vested in HUD Field Offices in the past. The MPS in this regard has consisted of minimums, which could be exceeded to meet essential local needs.

The Department received numerous comments which proposed specific changes in numbered paragraphs in the proposed rule. These comments, and the Department's response to them, are set forth below, by MPS paragraph number:

101–1.3 & 101–1.4 *Comment:* Requirements for housing for elderly and physically handicapped people are repetitive and widely dispersed throughout the MPS and should be consolidated.

Response: The requirements have now been consolidated in Sections 100–1.2 and 100–1.3.

Chapter 3 *Comment:* Site design is a very local decision usually governed by zoning, subdivision ordinance or, if none exists, by local terrain.

Response: Chapter 3 was made conditional to be applicable only in the few localities where no site design criteria were readily available.

400–3 *Comment:* Reduce the minimum bedroom size to 60 sq. ft.

Response: Except for kitchens, the room size requirements have been deleted.

400–4 *Comment:* Delete the 12 inch space between windows and a range.

Response: This proposal is not accepted because windows at ranges or next to ranges are a fire hazard. Curtains may catch on fire due to the wind blowing them over the range.

401–2 *Comment:* Allow bedroom windows to be omitted if the room door opens onto a corridor having access to two remote exits in opposite directions.

Response: This proposal is not accepted because of fire hazards. Dwellings do not have protected corridors. The unprotected corridor may be blocked by smoke and fire before occupants have an opportunity to escape.

401–4 *Comment:* Reduce the width of stairs to 2 ft. 8 in.

Response: The provision for stairway dimensions has been deleted together with Figure 4–2.1 Stairways.

401–4 *Comment:* Increase handrail projection so as to accommodate a 2¾" rail.

Response: This proposal is rejected. Studies indicate that the maximum width of a handrail should be between 1¼ to 1½ inches for use by children, adults and the handicapped.

Comment: Reduce width of stairs to 2 ft. 6 in. for basement stair in order to accommodate the foundation wall.

Response: See Response above.

401–4.2(b) (400–5.2 in Proposed Rule) *Comment:* The requirements do not bear directly on health, life safety or legislative mandate and should be deleted.

Response: The requirements were deleted to comply with the purpose of the revision and to rely on the housing industry for the planning of toilet, bath and shower compartments.

402–2 *Comment:* Provide for criteria which allows borrowed light.

Response: This proposal is rejected. The standard does not disallow borrowed light. This is a planning and marketability item.

403–3 Minimum net area of ventilating openings requirement in Section 403–3.1a was reduced to one square foot to comply with the 1980 Amendment to the One- and Two-Family Dwelling Code.

405–16 (404–6 in Proposed Rule) *Comment:* Delete the requirements for 15 minute thermal barrier when foam plastic sheathing is separated from the interior by 2 in. of mineral insulation.

Response: This proposal is rejected. Two inches of mineral insulation does not provide a 15 minute thermal barrier.

Chapter 5, Materials—*Comment:* Entire chapter should be condensed by referencing national standards where possible.

Response: The following MPS Sections were deleted or modified because standards referenced in the MPS contain the deleted information.

502—Deleted

503—Deleted
504—Deleted
505—Deleted
506–1.2; 1–3 and 1–4—Deleted
506–2.3—Modified
506–2.4—Modified
506–5.1—Deleted
506–5.4—Deleted
506–5.5 Footnote (1) to Table 5–6.2—Modified
507–1—Deleted
507–2—Deleted
507–4—Deleted
507–5 and Table 5–7.1—Deleted
507–7—Deleted
507–8—Deleted
508–7.3—Deleted
509–1—Deleted
509–2.1—Deleted
509–2.3—Deleted
509–3.1—Deleted
509–3.3—Deleted
509–4.2—Deleted
509–4.3—Deleted
509–5.1—Deleted
509–5.3 (a) & (b)—Deleted
509–6.1 (a) & (b)—Deleted
509–6.2 (a) & (b)—Deleted
509–7.1—Deleted
509–7.2—Deleted
509–7.4—Modified
509–7.5—Deleted
509–8—Deleted
511—Deleted
515–1.1—Deleted
515–1.3—Deleted
515–2.2—Deleted
515–2.3—Deleted
515–2.4—Deleted
515–2.5—Deleted
515–2.6—Deleted
515–4.5—Deleted
515–4.6—Deleted
515–5.1—Deleted
515–5.3—Deleted
515–6.2—Modified
515–6.5—Deleted
515–6.6—Deleted
515–8.1—Deleted
515–8.2—Deleted
515–9—Deleted

506–4 *Comment:* List all species and grades of lumber as acceptable materials.

Response: This proposal is premature and was not adopted. The MPS reference design criteria for species and grades of lumber which have been promulgated through the American Lumber Standards Committee (ALSC), U.S. Department of Commerce. The inclusion of design criteria for other species and grades of lumber will be considered when these are developed and published under the established ALSC procedures.

507–3 *Comment:* Replace the "recommended installation density" requirement with "weight per square foot" requirement.

Response: The weight per square foot proposal was not adopted since it does not compensate for the many variables that may affect the R value when it is based on weight per square foot. These may include such variables as: diameter of the material, length of the material, the air space around the material, the compactness of the material, etc. However, we have modified paragraph 507–3.4d, Conditions of Use, to address all types of blown-in insulation and to base the R values on a settled density as recommended by the manufacturer.

515–2 *Comment:* Include language in paragraph 515–2.1 a. & b. to provide that installed thickness of flexible duct wrap insulation should be assumed to be 75% of original thickness (out of package) for purposes of calculating R value.

Response: The R value requirement is the as installed value, and reduction in R value by reduction in thickness must be compensated for with additional insulation. The rationale for the R values of paragraph 515–2.1 a. & b. is in agreement with other referenced authorities such as ASHRAE 90–75.

Comment: Questions the need for duct insulation in crawl space if the crawl space is treated as conditioned space.

Response: In many parts of the country the conditioning is in the heating season only. Therefore, operable vents are required. The exception would be for crawl space plenum system and when the crawl space is open to the house (paragraph 402–3.1 in proposed rule). Note 4 of Table 6–7.1 permits the crawl space wall insulation in lieu of floors.

Chapter 3 and Chapter 6 *Comment:* Questions the addition of basic measurement of workmanship requirements when the purpose of these proposed revisions is to reduce the bulk of the MPS and to remove criteria that do not bear on health, life safety, legislative requirements or durability.

Response: In compliance with our stated objective to reduce the sheer volume of the MPS, and since basic measurement of work criteria are available from other sources, such as the Home Owners Warranty (HOW) Corporation program, we have deleted the appropriate MPS sections as follows:

Chapter 3

310–1.3 Ground settlement limitation.
311–1.3 Positive drainage of the lot assured.

Chapter 6

600 Structural stability and assurance of quality of materials and workmanship.
601–16.4 a. Foundation wall crack limits.
601.16.4 f. Basement leakage limits.
603–1 Concrete surface durability.
603–2.2 d. Concrete slab expansion and contraction joint crack limits.
603–7.1 c. Concrete basement floor surface quality.
603–7.1 d. Concrete floor slope limit.
603–7.1 e. Concrete slab-on-grade floor surface quality.
603–7.1 b. & f. Basement floor and attached garage slab crack limits.
603–8.3 b. Stoop and step settlement and crack limits.
604–1.5 e. Masonry wall crack limits.
604–6.2 f. Chimney separation limit.
604–7.1 b. Fireplace/chimney design quality.
606–1 c. Wall level and alignment limits.
607–4.1 b. Flashing leak limits.
608–1 b. Interior wood door limits.
608–1 b. Exterior wood door limits.
608–1 b. Garage door operation. Window installation quality.
608–2–1 Door weatherstripping application.
608–4.1 Window operation.
608–4.2 Window weatherstripping application.
609–2.1 a. Exterior finish carpentry joint size limits.
609–2.1 d. Siding quality limits.
609–2.1 e. Siding quality.
609–2.5 Stucco crack limits.
609–3.1 a. Roof leak limits.
609–4.1 Interior wall surface defect limits.
609–4.1 Interior finish carpentry joint size limits.
609–5.1 Rigid flooring level limits.
Table 6–9.7 Note (1) Ceramic tile defect limits.
609–6.1 Resilient flooring level and defect limits.
609–7.1 a. Exterior paint failure time limit.
609–7.1 b. Interior finish deterioration limit.
609–7.1 c. Interior paint coverage.
609–8.2 c. Wallpaper installation quality.
609–9.2 Carpet installation quality.
611–1.2 a. Kitchen counter delamination, chip and crack tolerances.
615–1.1 b. & c. Plumbing leak limits.
615–1.1 d. Plumbing fixture standards.
615–5.3 i. Drain waste and vent pipe insulation.

615–9.1 f. Sewer fixture operation.
615–9.1 f. Septic system capability.
616–1 Electric fixture operation.

601–2 *Comment:* Requests the insertion of a reference to the 1979 edition of the Uniform Building Code (UBC).

Response: HUD considers the 1979 issue of UBC as too restrictive, from a cost increase point of view, for one- and two-family dwelling construction. Since the MPS do not replace local code requirements, Section 102–2, seismic design in accordance with UBC 1979 shall be used in those seismically active areas where it is enforced. The HUD Study on Single-Story Masonry Houses is not referenced in the MPS because of its tentative status. Inclusion of a HUD (PDR–565) Guideline 6, The Home Builder's Guide for Earthquake Design, will be considered for a future MAP revision.

601–16.2b *Comment:* Add requirement for drain tile and automatic sump pump system.

Response: We added this requirement to the MPS.

601–16.4a *Comment:* Delete new requirements from Chapters 3 and 6 pertaining to basic measurement of workmanship.

Response: We agree with the commentor that these proposed requirements belong more appropriately in a guide publication rather than a mandatory standard and have deleted them as shown above.

601–18 *Comment:* Delete provision for safety against progressive collapse as a cost-increasing design requirement.

Response: The requirement was deleted to encourage the construction of basic, low-priced houses built to comply with the performance criteria of the MPS and model building codes.

603–7.5a *Comment:* Reduce thickness of concrete slab-on-ground to 3½ inches.

Response: To be compatible with the One- and Two-Family Dwelling Code, the slab thickness was reduced to 3½ inches here and in the following Sections: 603–8.1; 603–8.3a and 603–9.

604–2.3 *Comment:* There is no rationale for requiring furring.

Response: Although the requirement was applicable to areas experiencing frequent wind driven rains, we deleted this criterion relying on local requirements and construction industry practices.

606–4 *Comment:* Include examples of accepted engineering practice for structurally jointed members.

Response: This matter will be considered for inclusion in a future revision of MAP. Span Tables for headers appear in the MAP and need not be repeated in the MPS as proposed by a commentor.

606–4.7i *Comment:* Add provision for drywall clips.

Response: We modified this section to include clips for the support of drywall in corner of rooms where permitted by local practice and the clips are approved by the drywall manufacturer.

608–2 and 608–4 *Comment:* Add installation procedures for windows and doors to the MPS.

Response: This standard was not added to the MPS in keeping with the intent of this revision to simplify and shorten criteria in the MPS.

609–2.6 *Comment:* Requested a specific aluminum materials reference.

Response: To comply with current industry practice, the type of aluminum foil to be used under aluminum siding was specified instead of an outdated reference.

609–3 *Comment:* Use UM roofing references.

Response: ARMA recommendations for asphalt shingles and for stapling roofing materials in high or medium high wind areas were substituted instead of UM–25 as more current than the UM provisions.

609–3.9a & b *Comment:* Requirement for solid sheathing and asphalt-saturated felt underlay add unnecessary costs and should be deleted.

Response: The requirement has been deleted and reliance is placed on manufacturer's recommendations and local building codes.

609–5.1 *Comment:* Restudy the out-of-level limits for floors.

Response: We have deleted the out-of-level requirements and, after study, we may publish the results of our findings in a guide publication. The requirement was further modified to require installation to be in accordance with manufacturer's instructions.

609–5.2 *Comment:* Add provisions for the use of brick pavers as flooring.

Response: Brick paver standards are referenced in Appendix C—504 of the MPS. However, since we modified the previous section to require installation per manufacturer's instructions, we deleted the section together with Tables 6–9.7; 6–9.8 and 6–9.9 and Sections 609–6.3 and 609–6.4.

610–1 *Comment:* Change the size of duct screening.

Response: The type of screening required for any duct supplying air into the combustion chamber was changed from "rodent" to ¼" screening.

615–2 *Comment:* Questions whether a metal collector hood is intended to mean a ductless range hood.

Response: The MPS do not consider ductless range hoods acceptable as substitutes for ventilation requirements.

615–2 *Comment:* Disagree with the combustion air requirement.

Response: The wording of Section 615–2.5, Combustion Air, has been revised to reflect more closely NFPA Standards 34 and 51, and to clarify the intent of the requirement: that there should be an outside source of combustion air when there are exhaust systems in the house, such as a clothes dryer, fireplace or exhaust fan.

Comment: Add a requirement for make-up air for summer air conditioning for indirect evaporative pre-chillers.

Response: The MPS does not require air conditioning. Further, the effective use of direct or indirect evaporative cooling is limited by its location.

615–3.4b *Comment:* Add the sentence, "Where supply ducts are inaccessible, the register valve can be considered as an acceptable balancing device."

Response: We have added the suggested wording for clarification.

615–3.5a *Comment:* The wording should be changed to eliminate the ambiguity.

Response: The last sentence of the paragraph was modified to avoid misinterpretation.

615–5.4c *Comment:* Eliminate the requirement for two hose bibbs at convenient exterior locations because in many factory-built houses two hose bibbs frequently end up separated by only several feet.

Response: The requirement has been deleted and emphasis is placed in improved factory-built home design and planning to minimize misplacement of hose-bibbs.

615–8 *Comment:* Proposes individual water treatment facilities.

Response: Because many homeowners cannot be expected to provide the needed attention for a safe supply of water by individually treating

their water, the existing individual water systems requirements were not changed.

Miscellaneous

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

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 cost or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; (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.

The Catalog of Federal Domestic Assistance does not apply to this Rule.

This Rule was listed in item 22–B H–36–79 under the Office of Housing in the Department's Semiannual Agenda of Regulations published August 17, 1981 (46 FR 41714) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

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

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum property standards, Incorporation by reference.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: July 19, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commission.

[FR Doc. 82-21304 Filed 8-5-82; 6:45 am]

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Friday
August 6, 1982

Part V

Environmental Protection Agency

Innovative Technology Waivers for Five Automobile and Light-Duty Truck Surface Coating Operations

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2117-1]

Proposed Waivers From New Source Performance Standards; Innovative Technology Waivers for Five Automobile and Light-Duty Truck Surface Coating Operations

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) proposes to grant, subject to the concurrence by the Governors of the States of Michigan, Missouri, Ohio, and Tennessee, innovative technology waivers, pursuant to Section 111(j) of the Clean Air Act, as amended (the Act), 42 U.S.C. 7411(j), for topcoat operations at the following automobile and light-duty truck assembly plants:

(1) General Motors Corporation (GM) Wentzville, Missouri plant

(2) GM Detroit, Michigan plant

(3) GM Orion Township, Michigan plant

(4) Honda of America Manufacturing, Inc. (Honda) Marysville, Ohio plant

(5) Nissan Motor Manufacturing Corporation U.S.A. (Nissan) Smyrna, Tennessee plant

These statutory waivers would provide an opportunity to demonstrate the capability of base coat/clear coat (BC/CC) topcoat coating systems to achieve greater emission reductions than required by the existing standards of performance for topcoat coating operations at automobile and light-duty truck assembly plants at lower costs.

The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on the proposed innovative technology waivers.

DATES: *Comments.* Comments must be received on or before September 20, 1982.

Public Hearing. A public hearing (or hearings) will be held if requested. Persons wishing to request a public hearing must contact EPA by August 20, 1982. If hearings are requested, announcements of the dates and places will appear in separate **Federal Register** notices.

ADDRESSES: *Comments.* Under Section 307(d)(2), 42 U.S.C. 7607(d)(2), the Administrator is required to establish two separate rulemaking dockets for each rule that would apply only within the boundaries of one State. One copy of the docket is located in Washington, D.C., and a second copy is located at the EPA Regional Office for the affected State. Therefore, copies of all comments on a particular waiver action should be submitted to the Washington, D.C., docket and to the respective Regional Office docket.

One copy of each comment should be sent to: Central Docket Section (A-130), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. (Use appropriate docket number for plant waiver—see Table.)

A second copy of each comment should be sent to:

For: GM's Wentzville, Missouri plant: Environmental Protection Agency, Region VII, Attention: Mr. Charles Whitmore, Docket Number (see Table 1), 324 East 11th Street, Kansas City, Missouri 64106;

For: GM's Detroit, Michigan plant; GM's Orion Township, Michigan plant; and/or Honda's Marysville, Ohio plant: Environmental Protection Agency, Region V, Attention: Mr. Gary Gulezian, Docket Number (see Table 1), 230 S. Dearborn Street, Chicago, Illinois 60604.

For: Nissan's Smyrna, Tennessee plant: Environmental Protection Agency, Region IV, Attention: Mr. Brian Beals, Docket number (see Table 1), 345 Courtland Street, N.E. Atlanta, Georgia 30365.

TABLE I.—DOCKET NUMBERS

Plant	Docket No.
1. GM—Wentzville, Missouri	A-8211.
2. GM—Detroit, Michigan	A-8212.
3. GM—Orion Township, Michigan	A-8213.
4. Honda—Marysville, Ohio	A-8215.
5. Nissan—Smyrna, Tennessee	A-8216

The dockets may be inspected at the listed addresses between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged for copying.

Public Hearing. Persons wishing to request a public hearing should notify Ms. Naomi Durkee, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

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

SUPPLEMENTARY INFORMATION:

Background

Current Regulations

On October 5, 1979, purusant to Section 111 of the Clean Air Act, standards of performance were proposed to limit emissions of volatile organic compounds (VOC) from new, modified, and reconstructed automobile and light-duty truck surface coating operations (44 FR 57792). Final standards were published in the **Federal Register** on December 24, 1980 (45 FR 85410).

Standards of performance under Section 111 are established at levels that reflect best demonstrated technology (BDT). For automobile and light-duty truck topcoat operations, BDT was determined to be the use of low-VOC content waterborne coatings applied with the best demonstrated air atomized spray techniques. The standard of 1.47 kg VOC per liter of applied coating solids for topcoat operations was based on the use of this coating system at three U.S. plants. The standard does not, however, require use of waterborne coatings. Any coating system capable of reducing VOC emissions to 1.47 kg VOC per liter of applied coating solids may be used. Other methods which could be used independently or in various combinations to achieve the topcoat standard are low-VOC content solvent-borne coatings, add-on control devices, such as incinerators and carbon adsorbers, and high efficiency coating application techniques.

Trends in Automobile Topcoats

Since the standard was proposed in 1979, the trend in the domestic automobile industry has been to develop and use low-VOC content solvent-borne topcoats with improved transfer efficiency, rather than more costly waterborne coatings, to reduce VOC emissions and improve finish quality. Low-VOC content, solid color topcoats are available for production line use. These coatings have been demonstrated to be of acceptable quality and appearance and, when used in combination with better transfer efficiency and/or bake oven emission control systems (i.e., energy efficient incinerators), will meet the standard.

Single coat solvent-borne metallic coatings which could meet the standard are also available. These coatings cannot, however, match the performance or appearance of metallic base coat/clear coat (BC/CC) topcoat systems which are being used on many imported vehicles. BC/CC topcoat systems consist of a relatively thin layer of highly pigmented metallic base coat

followed by a thicker layer of clear coat. BC/CC coatings have a more appealing appearance than single coat metallic topcoat systems and also offer improved chemical resistance and gloss retention. Vehicles coated with BC/CC systems are being imported in significant quantities and sold in the U.S. by both European and Japanese manufacturers. Because of the general appeal and acceptance by U.S. consumers of vehicles coated with the BC/CC system, U.S. automobile and light-duty truck manufacturers must duplicate the performance of this type of topcoat system to be competitive.

The BC/CC coatings that are being used in foreign plants contain relatively large quantities of VOC. If U.S. manufacturers used similar coatings, the only possible method of meeting the existing standards of performance for automobile and light-duty truck surface coating operations would be to use an entirely new generation of very expensive add-on controls to minimize emissions. BC/CC systems with VOC content low enough to comply without such add-on control are not yet commercially available. The coatings manufacturing companies are working with automobile manufacturers to develop lower VOC content BC/CC systems. The automobile manufacturers and equipment vendors are developing efficient spray coating methods for these coatings. The results of this intensive industry development program will ultimately permit the automobile companies to meet the topcoat standard and still apply BC/CC coatings to automobiles in sufficient number to meet market demand without having to use expensive add-on controls.

Requirements of Section 111(j)

Section 111(j) of the Clean Air Act sets forth provisions for the issuance of waivers for the development of innovative technology. In the 1977 Amendments to the Clean Air Act, Congress added this provision to encourage the use of innovative "technological systems of continuous emission reduction" for the control of air pollutants. Their intent in doing so was to provide a statutory incentive for the improvement of emission control technology and for reducing costs, environmental impacts, and energy usage of such technology.

Under Section 111(j) of the Act, upon request by the owner or operator of a new source and with the consent of the Governor of the State in which the source is located, the Administrator is authorized to grant a waiver from the requirements of Section 111 for a limited time period and under specific terms and conditions provided certain statutory prerequisites are satisfied. The Administrator must determine that:

a. The proposed innovative system has not been adequately demonstrated;

b. The proposed innovative system will operate effectively and there is substantial likelihood that the system will achieve greater continuous emission reduction than otherwise required or achieve an equivalent emission reduction at lower cost in terms of energy, economic, or nonair quality environmental impact;

c. The owner or operator of the proposed system has demonstrated to the Administrator's satisfaction that the system will not cause or contribute an unreasonable risk to public health, welfare, or safety; and

d. The proposed waiver for the specific innovative technological system is not in excess of the number of waivers necessary to ascertain whether or not such system will achieve the conditions set forth in "b" and "c" immediately above.

Additionally, Section 111(j)(1)(B) of the Act requires an innovative technology waiver to be granted on such terms and conditions during the waiver period as the Administrator determines necessary:

a. to ensure emissions from the source will not prevent attainment and maintenance of any national ambient air quality standards, and

b. to ensure proper functioning of the innovative technological system.

Waiver Requests

General Motors

On October 30, 1981, GM submitted a request for innovative technology waivers under Section 111(j) of the Clean Air Act for the topcoat operations at three automobile plants now under construction. GM currently plans to initiate production in the second quarter of 1983 at the Orion Township, Michigan, and the Wentzville, Missouri, plants; with start-up of the Detroit, Michigan, plant to be in the second half of 1984. GM claims they need to use BC/CC metallic topcoats on almost all of the cars produced at these plants so that they can compete with imported cars.

The lowest VOC content BC/CC coating that is demonstrated by GM and will definitely be available for production line use by the second quarter of 1983 is a topcoat system which is composed of a 20 volume percent solids base coat and a 42 volume percent solids clear coat (i.e. a 20/42 BC/CC coating). GM plans to start-up these plants using this coating system. The BC will be applied with air atomized spray. The CC will be applied with a combination of manual air spray and automatic electrostatic spray. The average coating transfer effeciency will be 50 pecent for BC and 67 percent for CC. The oven exhaust gas streams from all coating ovens will be incinerated. The oven incinerators will reduce overall VOC emissions by about 15 percent. Under these conditions BC/CC topcoat VOC emissions would be 3.2 kg VOC per liter of applied coating solids at each of the three plants.

Currently, GM has two BC/CC coatings under evaluation (a 38/55 BC/CC coating and a 48/54 BC/CC coating) that would meet the topcoat standard of performance with oven incineration and an average coating transfer efficiency of 50 percent for BC and 67 percent for CC. These coatings are expected to be in use by December 31, 1986.

Honda

On November 19, 1981, Honda submitted a request for an innovative technology waiver under Section 111(j) of the Clean Air Act for the topcoat operation at an automobile plant that is being built in Marysville, Ohio. The plant is scheduled to begin production by the end of 1982. Honda would like to coat all of their metallic topcoated cars with BC/CC coatings so that they can match the quality of their cars produced in Japan and exported to the U.S.

The lowest VOC content BC/CC coating that is demonstrated by Honda and will definitely be available for production line use by the end of 1982 is a 21/42 BC/CC coating. Honda plans to begin production using this coating system. The BC will be applied with air atomized spray. The CC will be applied with a combination of manual electrostatic spray and automatic electrostatic spray. The average coating transfer efficiency will be 50 percent for BC and 92 percent for CC. The resulting VOC emissions under these conditions would be 3.1 kg VOC per liter of applied coating solids. Honda does not plan to incinerate the oven exhausts. Honda's analysis indicates that oven incineration without recycle is very expensive and that with recycle, coating quality problems are created.

Honda is testing two higher solids content BC/CC coatings: a 32/42 BC/CC coating and a 35/55 BC/CC coating. The 32/42 coating is expected to be available by January 1, 1985, and Honda plans to begin using this coating at that time. This coating will result in emissions of 2.1 kg of VOC per liter of applied coating solids when applied at an overall averge transfer efficiency of 50 percent for BC and 92 percent for CC. Honda plans to

demonstrate and use the 35/55 BC/CC coating by December 31, 1986. This coating when applied at an average transfer efficiency of 50 percent for BC and 92 percent for CC will result in emissions of 1.46 kg of VOC per liter of applied coating solids and will meet the promulgated topcoat standard of performance.

Nissan

On March 12, 1982, Nissan submitted a request for an innovative technology waiver under Section 111(j) of the Clean Air Act for the topcoat operation at a light-duty truck plant that is being built in Smyrna, Tennessee. The plant is scheduled to begin production in August 1983. Nissan would like to coat all of their metallic topcoated light-duty trucks with BC/CC coatings so that they can match the quality of their light-duty trusks produced in Japan and exported to the U.S.

The lowest VOC content BC/CC coating that is demonstrated by Nissan and will be available for production line use by August 1983 is a 21/37 BC/CC coating. Nissan plans to begin production using this BC/CC coating system. The BC will be applied with a combination of air atomized spray, manual electrostatic spray, and automatic electrostatic spray. The CC will be applied with a combination of manual electrostatic spray and automatic electrostatic spray. The average coating transfer efficiency will be 69 percent for BC and 87 percent for CC. Incinerators on all bake oven exhaust will reduce overall emissions by 20 percent. Under these conditions BC/CC topcoat emissions would be 2.3 kg of VOC per liter of applied coating solids.

Nissan is testing a higher solids 32/45 BC/CC coating system. Nissan expects this coating to be available for dark metallic colors by August 1984 and in use for all dark metallic colors by August 1985. This coating is expected to be available for light metallic colors by August 1986. When applied at an average transfer efficiency of 69 percent for BC and 87 percent for CC, and with incineration of the oven exhaust, this coating will result in emissions of 1.3 kg of VOC per liter of applied coating solids and will meet the promulgated topcoat standard.

Conclusions

The GM, Honda, and Nissan waiver requests depend upon the development of lower VOC content metallic BC/CC topcoats than are currently available and demonstrated. Therefore, review of these waivers are discussed under the same headings below.

Technology Not Demonstrated

Both GM and Honda plan to use BC/CC metallic topcoat coatings on close to 100 percent of the automobiles produced at the plants for which they have requested waivers. Nissan plans to use BC/CC metallic topcoat coatings on about 60 percent of the light-duty trucks produced at the plant for which they have requested a waiver. The lowest VOC content BC/CC metallic topcoat coating expected to be available and demonstrated for GM, Honda, and Nissan at the time these plants will start-up will average between 20 and 21 volume percent solids for the base coat and between 37 and 42 volume percent solids for the clear coat (i.e., 20/42, 21/37, or 21/42 BC/CC coating). When these coating systems are applied with the best available coating application equipment demonstrated by each company and bake over exhaust incineration is used where feasible, emissions of 2.3 (Nissan), 3.1 (Honda), and 3.2 (GM) kilograms of VOC per liter of applied coating solids will result.

These emission levels are higher than the 1.47 kilograms of VOC per liter of applied coating solids allowed by the standards of performance for topcoat operations. Since GM and Honda will use BC/CC metallic topcoat coatings on close to 100 percent of the vehicles they produce, averaging emissions from solid color vehicles with emissions from BC/CC metallic vehicles, as is allowed within each topcoat operation by the standards of performance, will not enable them to meet the standards at start-up. If Nissan, as expected, uses solid colors on about 40 percent of the vehicles they produce, their overall average topcoat VOC emissions at start-up would be about 1.7 kilograms of VOC per liter of applied coating solids. This is also more than the topcoat standard of performance allows.

Higher solids BC/CC metallic topcoat coatings, which are in various stages of development and testing by GM, Honda, Nissan and others, include a 32/42 BC/CC coating, a 32/44 BC/CC coating, a 32/45 BC/CC coating, a 35/55BC/CC coating, a 38/54 BC/CC coating, and a 48/54 BC/CC coating. GM could meet the topcoat standard of performance with either the 38/54 or the 48/54 coating using the paint application equipment and bake oven exhaust incinerators that they plan to install at start-up of each of their three plants. Honda could meet the topcoat standard of performance with the 35/55 coating using the paint application equipment that they plan to install at start-up of their plant. Nissan could meet the topcoat standard of performance within the 35/45 coating using the paint application equipment and bake oven exhaust incinerators that they plan to install at start-up of their plant.

Development of these metallic topcoat BC/CC coatings to the point where they are compatible with high transfer efficiency coating equipment and ready for use on assembly lines is necessarily a time-consuming process. Achievement of the emission rates necessary to comply with the topcoat standards of performance is dependent not only upon continued development of these coatings, but also upon the continuing development and use of coating application techniques which result in high transfer efficiency of the sprayed solids to the automobile. Development and demonstration of these techniques are an integral part of the coatings development program.

In addition to the need to assure that the coatings can be applied under assembly-line conditions while achieving acceptable appearance and quality, there is also the need to assure durability of the coating. This requires long-term exposure testing.

Until the 32/45, the 35/55, the 38/54, or the 48/54 BC/CC coating is developed, compliance with the topcoat standard of performance using BC/CC coatings can only be achieved by limiting production of vehicles with BC/CC coatings or by using add-on controls. Limiting production of vehicles with BC/CC coatings to achieve compliance with the topcoat standard of performance is unreasonable due to the economic penalty this could impose on domestic automobile manufacturers as a result of their inability to market vehicles with BC/CC coatings. Similarly, as explained below, the use of add-on controls is also unreasonable.

Up to 80 percent of all VOC's emitted from a topcoat operation are emitted from the spray booth area. This high volume emission stream is characterized by low VOC concentration. This is due to the ventilation requirements for workers in the spray booth and process considerations to prevent overspray from drifting from one vehicle to the next. There are two add-on control technologies that could be applied to this stream to reduce VOC emissions: carbon adsorption and incineration. Both effectively remove or destroy VOC's from the exhaust streams before release to the atmosphere.

Carbon adsorption units have been used in experimental small scale studies on low VOC concentration spray booth exhaust streams and have been technically demonstrated. Although these systems have not been used in

full-scale production, there is sufficient evidence to show that they would also work in such applications. Based on studies conducted at their Fremont, California plant, GM estimated the capital cost for the size carbon adsorption system necessary to achieve compliance with the topcoat standard of performance on a 20/42 BC/CC topcoat system to be $78,000,000 per plant. The annualized operating cost for this system (including labor, depreciation, insurance, taxes, utilities, and carbon) was estimated to be approximately $19 million per plant. The carbon adsorber would remove approximately 1200 tons of VOC emissions per year resulting in a cost-effectiveness of over $15,000 per ton of VOC removed. This is considered excessive.

Incineration of the spray booth exhaust stream requires a large amount of supplemental fuel because the low VOC concentration cannot support combustion by itself. The economic and energy impacts of incineration have been estimated to be significantly higher than the carbon adsorption control alternative outlined above.

In summary, BC/CC topcoat systems which will meet the topcoat standard of performance and allow production of BC/CC coated vehicles at the levels required to permit domestic automobile manufacturers to compete with foreign automobile manufacturers are not adequately demonstrated. Add-on control systems that would reduce VOC emissions to levels required to comply with the topcoat standard of performance are demonstrated technically, but the economic and energy impacts associated with these control systems are considered unreasonable.

BC/CC Systems Will Operate Effectively and Achieve the Standard at Lower Costs

There is sufficient evidence to indicate that the companies that develop and market automobile coatings and coatings application equipment will develop BC/CC coating systems that will meet both the topcoat standard of performance and the automobile manufacturers production and coating quality requirements within the time frame provided in the waivers. This conclusion is based on the fact that a number of BC/CC coatings, which have lower VOC contents than currently demonstrated BC/CC coatings, are already in various stages of testing and that the companies that develop and market automobile coatings have a history of succeeding within their projected time frames for developing low-VOC content coatings.

When developed, the 32/45, 35/55, 38/54, and 48/54 BC/CC topcoat coatings will meet the topcoat standard of performance at lower cost and energy requirements compared to the use of waterbone coatings which are the basis of the topcoat standard of performance. These low-VOC content BC/CC coatings will also be able to achieve the topcoat standard without spray booth controls; therefore, the energy and economic impacts would be much less than for the use of a 20/42, 21/37, or 21/42 BC/CC coating and spray booth controls.

Number of Waivers Needed To Demonstrate Technology

Based on a review of the technical factors involved in demonstrating that lower solvent BC/CC systems are an available technology, the Agency concludes that the number of waivers which have been requested are necessary and appropriate. Generally, much of the BC/CC technology is transferable among automobile manufacturing companies, since coating manufacturers do not limit their sales to only one firm or plant. However, individual automobile manufacturing companies have historically relied on their own testing procedures and acceptance criteria for establishing a coating durability and quality. Such independent testing is an inherent part of the competitive structure of the automobile industry and plays an important role in advancing the quality of automobile coatings.

Moreover, the demonstration of BC/CC technology involves advancement in application equipment as well as the coatings, and the two must be compatible. The advancement and demonstration of this technology must take into account a number of variables including different plant designs and approaches to paint processing; variability among coating supplied by three or more suppliers; plant-to-plant differences in the performance of paint line equipment (e.g. ovens, temperature, and humidity control systems); the use of evolving robot systems; and new high voltage electrostatic equipment supplied by several vendors. In effect, these variables present a matrix of combinations which must be evaluated before the lower solvent BC/CC systems are fully demonstrated. Considering the complexity and technical challenge which this presents, the Agency concludes that each waiver is warranted.

BC/CC Will Not Cause or Contribute to Unreasonable Risk to Public Health, Welfare, or Safety

The ambient air implications of allowing additional VOC emissions during the waiver period would not contribute to an unreasonable risk to public health, welfare, or safety. The waivers would allow between 200 and 1,200 additional tons of VOC per plant per year to be emitted from topcoat operations while they are in effect. All five plants are in non-attainment areas for ozone. Each plant, however, must obtain State permits prior to construction. These permits must insure that reasonable further progress toward attainment will be achieved. Therefore, the proposed waivers would not prevent attainment and maintenance of the national ambient air quality standard for ozone. Each of the five plants must also meet the lowest achievable emission rate (LAER) requirement of section 173 of the Act.

Use of the low-VOC content BC/CC coating systems will not result in an increase in water or solid waste pollution compared to the current coating systems now in use at existing plants, nor will new pollutants be released to the environment.

Conclusion

Based on the above considerations, the Administrator proposes to grant, subject to the concurrence of the Governors of Michigan, Missouri, Ohio, and Tennessee, innovative technology waivers as specified in this proposal to: (1) GM for their Wentzville, Missouri automobile assembly plant; (2) GM for their Detroit, Michigan automobile assembly plant; (3) GM for their Orion Township, Michigan automobile assembly plant; (4) Honda for their Marysville, Ohio automobile assembly plant; and (5) Nissan for their Smyrna, Tennessee light-duty truck assembly plant; based upon findings that such waivers comply with the provision of Section 111(j) of the Act.

Proposed Waivers

The five waivers are proposed to be granted under the followed general conditions. The starting BC/CC system would be the lowest emitting BC/CC system adequately demonstrated for each plant. The plants must use coating applications systems with the highest transfer efficiencies that are currently available and practical at the respective plant.

The waivers will cover only the BC/CC metallic topcoat portion of the topcoat operations. If single coat solid color or metallic topcoats are used, that

portion of the topcoat operation must meet the topcoat standard of performance at all times. Reports of progress on the development of the BC/CC systems must be made to EPA within 60 days of start-up and at least once each 12-month period. The topcoat standard of performance must be achieved as soon as possible. Each waiver will not exceed a period of 4 years from the start-up date of the plant, nor will it go beyond December 31, 1986.

The companies are required, consistent with Section 173 of the Clean Air Act, to obtain permits to operate from the State. These permits will assure that each plant granted a waiver will not prevent attainment and maintenance of any national ambient air quality standard. The conditions of the proposed waiver would also require proper operation of the BC/CC systems.

By virtue of Section 111(j)(1)(B) of the Act, 42 U.S.C. 7411(j)(1)(B), the terms and conditions of the Section 111(j) waivers would be federally promulgated standards of performance legally applicable during the waiver periods. Violations of the terms and conditions of the Section 111(j) waivers would subject the owners and operators of the plants granted waivers to Federal enforcement under Section 113 (b) and (c), 42 U.S.C. 7413 (b) and (c), and 120, 42 U.S.C. 7420 of the Act, as well as possible citizen enforcement under Section 304 of the Act, 42 U.S.C. 7604.

State Concurrence

Pursuant to Section 111(j)(1)(A) of the Act, 42 U.S.C. 7411(j)(1)(A), if after review and consideration of comments submitted in response to this rulemaking, the Administrator decides to issue a waiver of the Federal new source performance standard to the GM Detroit, Michigan plant; GM Wentzville, Missouri plant; GM Orion Township, Michigan plant; Honda Marysville, Ohio plant; and Nissan Smyrna, Tennessee plant; the Administrator shall request the concurrence of the Governors of the States of Michigan, Missouri, Ohio, and Tennessee. Receipt of such concurrences is a prerequisite for a waiver under Section 111(j) of the Act.

Docket

The docket for each proposed waiver is an organized and complete file of all the information considered in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated waivers and EPA's responses to significant comments, the contents of the docket will serve as the record in case of judicial review except for interagency review materials [Section 307(d)(7)(A)].

Miscellaneous

In accordance with Section 117 of the Act, publication of these proposed waivers was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

The Paperwork Reduction Act of 1980 (PL 96–511) requires EPA to submit to the Office of Management and Budget (OMB) certain public reporting/recordkeeping requirements before proposal. This rulemaking does not involve a "collection of information" as defined in the Paperwork Reduction Act. Therefore, the provisions of the Paperwork Reduction Act applicable to collection of information do not apply to this rulemaking.

The Administrator certifies that a regulatory flexibility analysis under 5 U.S.C. 601 et seq. is not required for this rulemaking because the rulemaking would not have a significant impact on a substantial number of small entities. The rulemaking would not impose any new requirements; and, therefore, no additional costs would be imposed. It is, therefore, classified as nonmajor under Executive Order 12291.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment, Disposal and Zinc.

Dated: July 29, 1982.

John W. Hernandez, Jr.,

Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Title 40 Part 60, Subpart MM of the Code of Federal Regulations is proposed to be amended by adding a new § 60.398 as set forth below:

§ 60.398 Innovative technology waivers.

(a) General Motors Corporation, Wentzville, Missouri Automobile Assembly plant.

(1) Pursuant to Section 111(j) of the Clean Air Act, 42 U.S.C. 7411(j), each topcoat operation at General Motors Corporation automobile assembly plant located in Wentzville, Missouri, shall comply with the following conditions:

(i) The General Motors Corporation shall obtain the necessary permits as required by Section 173 of the Clean Air Act, as amended August 1977, to operate the Wentzville assembly plant.

(ii) Commencing on —— [date of promulgation in the **Federal Register**], and continuing for 4 years or to December 31, 1986, whichever comes first, or until the base coat/clear coat topcoat system that can achieve the standard specified in 40 CFR 60.392(c) (December 24, 1980), is demonstrated to the Administrator's satisfaction, the General Motors Corporation shall limit the discharge of VOC emissions to the atmospere from each topcoat operation at the Wentzville, Missouri assembly plant, to either:

(A) 3.2 kilograms of VOC per liter of applied coating solids from base coat/clear coat metallic topcoats, and 1.47 kilograms of VOC per liter of applied coating solids from all other topcoat coatings; or

(B) 1.47 kilograms of VOC per liter of applied coating solid from all topcoat coatings.

(iii) Commencing on the day after the expiration of the period described in (ii) above, and continuing thereafter, emissions of VOC from each topcoat operation shall not exceed 1.47 kilograms of VOC per liter of applied coating solids as specified in 40 CFR 60.392(c) (December 24, 1980).

(iv) Each topcoat operation shall comply with the provisions of § 60.393, § 60.394, § 60.395, § 60.396, and § 60.397. Separate calculations shall be made for base coat/clear coat metallic coatings and all other topcoat coatings when necessary to demonstrate compliance with the emission limits in § 60.398(a)(1)(ii)(A).

(v) A technology development report shall be sent to EPA Region VII, 324 East 11th Street, Kansas City, Missouri 64106, postmarked before 60 days after the promulgation of this waiver and annually thereafter while this waiver is in effect. The technology development report shall summarize the base coat/clear coat development work including the results of exposure and endurance tests of the various coatings being evaluated. The report shall include an updated schedule of attainment of 40 CFR 60.392(c) (December 24, 1980) based on the most current information.

(2) This waiver shall be a federally promulgated standard of performance.

As such, it shall be unlawful for General Motors Corporation to operate a topcoat operation in violation of the requirements established in this waiver. Violation of the terms and conditions of this waiver shall subject the General Motors Corporation to enforcement under Section 113 (b) and (c), 42 U.S.C. 7412 (b) and (c), and Section 120, 42 U.S.C. 7420, of the Act as well as possible citizen enforcement under Section 304 of the Act, 42 U.S.C. 7604.

(b) General Motors Corporation, Detroit, Michigan Automobile Assembly plant.

(1) Pursuant to Section 111(j) of the Clean Air Act, 42 U.S.C. 7411(j), each topcoat operation at General Motors Corporation's automobile assembly plant located in Detroit, Michigan, shall comply with the following conditions:

(i) The General Motors Corporation shall obtain the necessary permits as required by Section 173 of the Clean Air Act, as amended August 1977, to operate the Detroit assembly plant.

(ii) Commencing on——[date of promulgation in the **Federal Register**], and continuing for 4 years or to December 31, 1986, whichever comes first, or until the base coat/clear coat topcoat system that can achieve the standard specified in 40 CFR 60.392(c) (December 24, 1980), is demonstrated to the Administrator's satisfaction, the General Motors Corporation shall limit the discharge of VOC emissions to the atmosphere from each topcoat operation at the Detroit, Michigan assembly plant, to either:

(A) 3.2 kilograms of VOC per liter of applied coating solids from base coat/clear coat metallic topcoats, and 1.47 kilograms of VOC per liter of applied coating solids from all other topcoat coatings; or

(B) 1.47 kilograms of VOC per liter of applied coating solid from all topcoat coatings.

(iii) Commencing on the day after the expiration of the period described in (ii) above, and continuing thereafter, emissions of VOC from each topcoat operation shall not exceed 1.47 kilograms of VOC per liter of applied coating solids as specified in 40 CFR 60.392(c) (December 24, 1980).

(iv) Each topcoat operation shall comply with the provisions of § 60.393, § 60.394, § 60.395, § 60.396, and § 60.397. Separate calculations shall be made for base coat/clear metallic coatings and all other topcoat coatings when necessary to demonstrate compliance with the emission limits in § 60.398(b)(1)(ii)(A).

(v) A Technology development report shall be sent to EPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604, postmarked before 60 days after the promulgation of this waiver and annually thereafter while this waiver is in effect. The technology development report shall summarize the base coat/clear coat development work including the results of exposure and endurance tests of the various coatings being evaluated. The report shall include an updated schedule of attainment of 40 CFR 60.392(c) (December 24, 1980) based on the most current information.

(2) This waiver shall be a federally promulgated standard of performance. As such, it shall be unlawful for General Motors Corporation to operate a topcoat operation in violation of the requirements established in this waiver. Violation of the terms and conditions of this waiver shall subject the General Motors Corporation to enforcement under Section 113(b) and (c), 42 U.S.C. 7412(b) and (c), and Section 120, 42 U.S.C. 7420, of the Act as well as possible citizen enforcement under Section 304 of the Act, 42 U.S.C. 7604.

(c) General Motors Corporation, Orion Township, Michigan automobile assembly plant.

(1) Pursuant to Section 111(j) of the Clean Air Act, 42 U.S.C. 7411(j), each topcoat operation at General Motors Corporation automobile assembly plant located in Orion Township, Michigan, shall comply with the following conditions:

(i) The General Motors Corporation shall obtain the necessary permits as required by Section 173 of the Clean Air Act, as amended August 1977, to operate the Orion Township assembly plant.

(ii) Commencing on—— [date of promulgation in the **Federal Register**], and continuing for 4 years or to December 31, 1986, whichever comes first, or until the base coat/clear coat topcoat system that can achieve the standard specified in 40 CFR 60.392(c) (December 24, 1980), is demonstrated to the Administrator's satisfaction, the General Motors Corporation shall limit the discharge of VOC emissions to the atmosphere from each topcoat operation at the Orion Township, Michigan, assembly plant, to either:

(A) 3.2 kilograms of VOC per liter of applied coating solids from base coat/clear coat metallic topcoats, and 1.47 kilograms of VOC per liter of applied coating solids from all other topcoat coatings; or

(B) 1.47 kilograms of VOC per liter of applied coating solid from all topcoat coatings.

(iii) Commencing on the day after the expiration of the period described in (ii) above, and continuing thereafter, emissions of VOC from each topcoat operation shall not exceed 1.47 kilograms of VOC per liter of applied coating solids as specified in 40 CFR 60.392(c) (December 24, 1980).

(iv) Each topcoat operation shall comply with the provisions of § 60.393, § 60.394, § 60.395, § 60.396, and § 60.397. Separate calculations shall be made for base coat/clear metallic coatings and all other topcoat coatings when necessary to demonstrate compliance with the emission limits in § 60.398(c)(1)(ii)(A).

(v) A Technology development report shall be sent to EPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604, postmarked before 60 days after the promulgation of this waiver and annually thereafter while this waiver is in effect. The technology development report shall summarize the base coat/clear coat development work including the results of exposure and endurance tests of the various coatings being evaluated. The report shall include an updated schedule of attainment of 40 CFR 60.392(c) (December 24, 1980) based on the most current information.

(2) This waiver shall be a federally promulgated standard of performance. As such, it shall be unlawful for General Motors Corporation to operate a topcoat operation in violation of the requirements established in this waiver. Violation of the terms and conditions of this waiver shall subject the General Motors Corporation to enforcement under Section 113 (b) and (c), 42 U.S.C. 7412 (b) and (c), and Section 120, 42 U.S.C. 7420, of the Act as well as possible citizen enforcement under Section 304 of the Act, 42 U.S.C. 7604.

(d) Honda of America Manufacturing, Incorporated (Honda), Marysville, Ohio, automobile assembly plant.

(1) Pursuant to Section 111(j) of the Clean Air Act, 42 U.S.C. 7411(j), each topcoat operation at Honda's automobile assembly plant located in Marysville, Ohio shall comply with the following conditions:

(i) Honda shall obtain the necessary permits as required by Section 173 of the Clean Air Act, as amended August 1977, to operate the Marysville assembly plant.

(ii) Commencing on —— [date of promulgation in the **Federal Register**] and continuing for 4 years or to December 31, 1986, whichever comes first, or until the base coat/clear coat topcoat system that can achieve the standard specified in 40 CFR 60.392(c) (December 24, 1980), is demonstrated to the Administrator's satisfaction, Honda shall limit the discharge of VOC emissions to the atmosphere from each topcoat operation at the Marysville, Ohio, assembly plant, to either:

(A) 3.1 kilograms of VOC per liter of applied coating solids from base coat/

clear coat metallic topcoats, and 1.47 kilograms of VOC per liter of applied coating solids from all other topcoat coatings; or

(B) 1.47 kilograms of VOC per liter of applied coating solid from all topcoat coatings.

(iii) Commencing on the day after the expiration of the period described in (ii) above, and continuing thereafter, emissions of VOC from each topcoat operation shall not exceed 1.47 kilograms of VOC per liter of applied coating solids as specified in 40 CFR 60.392(c) (December 24, 1980).

(iv) Each topcoat operation shall comply with the provisions of § 60.393, § 60.394, § 60.395, § 60.396, and § 60.397. Separate calculations shall be made for base coat/clear coat metallic coatings and all other topcoat coatings when necessary to demonstrate compliance with the emission limits in § 60.398(d)(1)(ii)(A).

(v) A technology development report shall be sent to EPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604, postmarked before 60 days after the promulgation of this waiver and annually thereafter while this waiver is in effect. The technology development report shall summarize the base coat/clear coat development work including the results of exposure and endurance tests of the various coatings being evaluated. The report shall include an updated schedule of attainment of 40 CFR 60.392(c) (December 24, 1980) based on the most current information.

(2) This waiver shall be a federally promulgated standard of performance. As such, it shall be unlawful for Honda to operate a topcoat operation in violation of the requirements established in this waiver. Violation of the terms and conditions of this waiver shall subject Honda to enforcement under Section 113 (b) and (c), 42 U.S.C. 7412 (b) and (c), and Section 120, 42 U.S.C. 7420, of the Act as well as possible citizen enforcement under Section 304 of the Act, 42 U.S.C. 7604.

(e) Nissan Motor Manufacturing Corporation, U.S.A. (Nissan), Smyrna, Tennessee light-duty truck assembly plant.

(1) Pursuant to Section 111(j) of the Clean Air Act, 42 U.S.C. 7411(j), each topcoat operation at Nissan's light-duty truck assembly plant located in Smyrna, Tennessee shall comply with the following conditions:

(i) Nissan shall obtain the necessary permits as required by Section 173 of the Clean Air Act as amended August 1977, to operate the Smyrna assembly plant.

(ii) Commencing on —— [date of promulgation in the Federal Register], and continuing for 4 years or to December 31, 1986, whichever comes first, or until the base coat/clear coat topcoat system that can achieve the standard specified in 40 CFR 60.392(c) (December 24, 1980), is demonstrated to the Administrator's satisfaction, Nissan shall limit the discharge of VOC emissions to the atmosphere from each topcoat operation at the Smyrna, Tennessee assemply plant, to either:

(A) 2.3 kilograms of VOC per liter of applied coating solids from base coat/clear coat metallic topcoats, and 1.47 kilograms of VOC per liter of applied coating solids from all other topcoat coatings; or

(B) 1.47 kilograms of VOC per liter of applied coating solid from all topcoat coatings.

(iii) Commencing on the day after the expiration of the period described in (ii) above, and continuing thereafter, emissions of VOC from each topcoat operation shall not exceed 1.47 kilograms of VOC per liter of applied coating solids as specified in 40 CFR 60.392(c) (December 24, 1980).

(iv) Each topcoat operation shall comply with the provisions of § 60.393, § 60.394, § 60.395, § 60.396, and § 60.397. Separate calculations shall be made for base coat/clear coat metallic coatings and all other topcoat coatings when necessary to demonstrate compliance with the emission limits in § 60.398(e)(1)(ii)(A).

(v) A technology development report shall be sent to EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, postmarked before 60 days after the promulgation of this waiver and annually thereafter while this waiver is in effect. The technology development report shall summarize the base coat/clear coat development work including the results of exposure and endurance tests of the various coatings being evaluated. The report shall include an updated schedule of attainment of 40 CFR 60.392(c) (December 24, 1980) based on the most current information.

(2) This waiver shall be a federally promulgated standard of performance. As such, it shall be unlawful for Nissan to operate a topcoat operation in violation of the requirements established in this waiver. Violation of the terms and conditions of this waiver shall subject Nissan to enforcement under Section 113(b) and (c), 42 U.S.C. 7412(b) and (c), and Section 120, 42 U.S.C. 7420, of the Act as well as possible citizen enforcement under Section 304 of the Act, 42 U.S.C. 7604.

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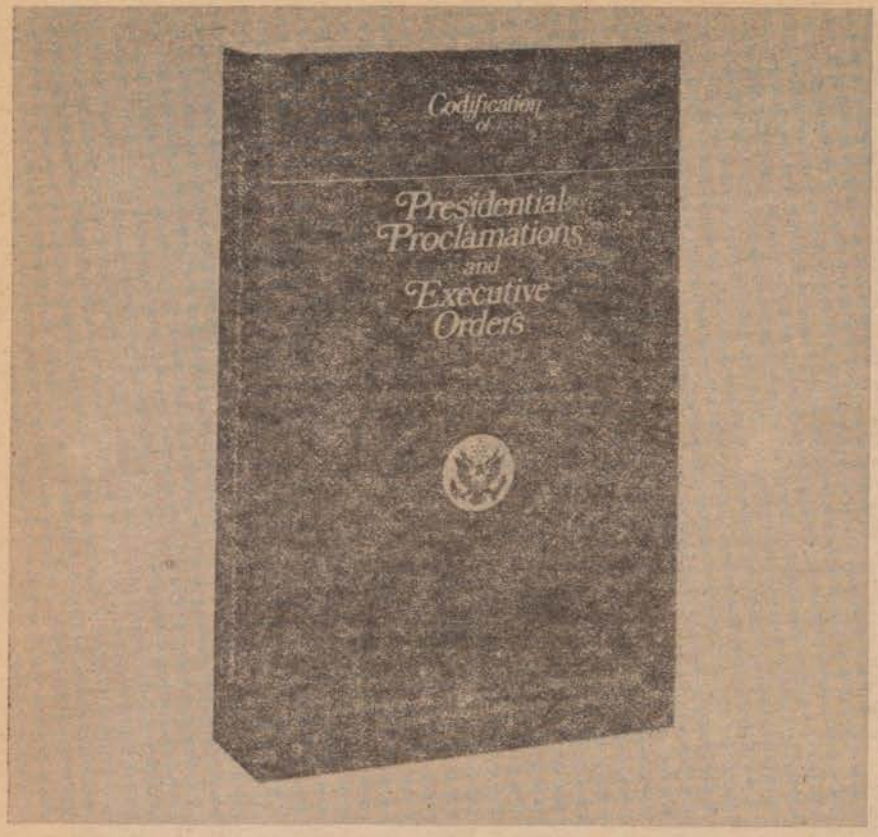

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