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Friday
August 27, 1982

Selected Subjects

Air Carriers
Civil Aeronautics Board

Banks, Banking
Federal Reserve System

Customs Duties and Inspections
Customs Service

Fisheries
National Oceanic and Atmospheric Administration

Food Stamps
Food and Nutrition Service

Foreign-Trade Zones
Customs Service

Fuel Additives
Environmental Protection Agency

Government Procurement
Agency for International Development

Grant Programs—Natural Resources
Soil Conservation Service

Grant Programs—Social Programs
Child Support Enforcement Office

Imports
Customs Service

Loan Programs—Agriculture
Commodity Credit Corporation

Loan Programs—Energy
Rural Electrification Administration

CONTINUED INSIDE



Selected Subjects

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

Marketing Agreements
Agricultural Marketing Service

Marketing Quotas
Agricultural Stabilization and Conservation Service

Milk Marketing Orders
Agricultural Marketing Service

Mine Safety and Health
Mine Safety and Health Administration

Radio Broadcasting
Federal Communications Commission

Securities
Securities and Exchange Commission

Spices and Flavorings
Food and Drug Administration

Uniform System of Accounts
Interstate Commerce Commission

Television Broadcasting
Federal Communications Commission

Contents

Federal Register
Vol. 47, No. 167
Friday, August 27, 1982

Agency for International Development
RULES
37882 Procurement

Agricultural Marketing Service
RULES
37861 Lemons grown in Ariz. and Calif.
PROPOSED RULES
37911 Almonds grown in Calif.
Milk marketing orders:
37912 Tennessee Valley

Agricultural Stabilization and Conservation Service
RULES
Marketing quotas and acreage allotments:
37860 Tobacco (burley)
37859 Tobacco (fire-cured, etc.)
NOTICES
Meetings:
37937 National Conservation Review Group

Agriculture Department
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Food and Nutrition Service; Rural Electrification Administration; Soil Conservation Service.

Air Force Department
NOTICES
Environmental statements; availability, etc.:
37948 Over-the-Horizon Backscatter radar system on West Coast; meetings

Arts and Humanities, National Foundation
NOTICES
Meetings:
37981 Music Advisory Panel (Jazz Organizations)

Child Support Enforcement Office
RULES
State plan requirements:
37886 Incentive payments

Civil Aeronautics Board
PROPOSED RULES
Air carriers:
37914 Subsidized carriers; eligible points bumping procedures
NOTICES
37941 Agency forms submitted to OMB for review
37940 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications
Hearings, etc.:
37941 Central Zone-Caracas/Maracaibo Venezuela service case
37942 FirstAir Corp.; fitness investigation
37942 Samoa Airlines, Inc.; fitness investigation
37941 Tampa-London case
37941, 37942 Tampa-London service proceeding (2 documents)
37941 Transporte Aereo Dominicano, S.A.

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Credit Corporation
RULES
Loan and purchase programs:
37864 Corn
37867 Oats
37869 Rye
37861 Sorghum
37872 Soybeans
37874 Wheat
NOTICES
Loan and purchase programs:
37938 Cotton; correction
Price support rates:
37937 Tobacco, flue-cured

Commodity Futures Trading Commission
RULES
37880 Domestic exchange-traded commodity options; occupational categories for determining commercial participation, list; availability
NOTICES
Contract market proposals:
37947 New York Mercantile Exchange; Gulf Coast No. 2 heat oil, leaded gasoline, and unleaded gasoline futures contracts

Customs Service
RULES
Merchandise, imported; transportation in bond and merchandise in transit:
37880 Shipment shortages; entry acceptance when merchandise cannot be recovered intact
PROPOSED RULES
Country of origin marking:
37926 Liquidated damages payment; petitions for relief
Customs relations with Canada and Mexico:
37924 Locomotives and railroad equipment; admittance
37927 Foreign trade zones; transfer of merchandise to customs bonded warehouse

Defense Department
See Air Force Department; Navy Department.

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
37978 Merck & Co., Inc.

Economic Regulatory Administration
NOTICES
Powerplant and industrial fuel use; electric utility conservation:
37952 Plan receipts

Education Department
NOTICES
Meetings:
37951 Community Education Advisory Council

Employment and Training Administration
NOTICES
Adjustment assistance:
37979 Armstrong Rubber Co. et al.
37980 Bomar Crystal Co.
37979 Bridon American Corp. et al.
37980 Alien agricultural employees, temporary employment; adverse effect wage rates

Employment Standards Administration
NOTICES
38016 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Calif., Ga., Ill., Iowa, La., Md., Mo., N. Mex., N.Y., Tex., Utah, Wis., and Wyo.)

Energy Department
See Economic Regulatory Administration; Energy Research Office.

Energy Research Office
NOTICES
Meetings:
37953 Energy Research Advisory Board; correction

Environmental Protection Agency
RULES
Air programs; fuel and fuel additives:
38090 Small refineries; maximum average lead content in gasoline; suspension of compliance date
PROPOSED RULES
Air programs; fuel and fuel additives:
38078 Average lead content in gasoline
38070 Average lead content in gasoline; withdrawal
NOTICES
Environmental statements; availability, etc.:
37955 Agency statements; weekly receipts
38956 Eugene/Springfield, Oreg.; Metropolitan Wastewater Management Commission proposed sludge management program; scoping meeting
Toxic and hazardous substances control:
37954 Premanufacture notices receipts
37955 Premanufacture notification requirements; test marketing exemption applications
Water pollution control:
37953 Safe drinking water, public systems designations; California; inquiry and hearing

Equal Employment Opportunity Commission
NOTICES
37994 Meetings; Sunshine Act

Federal Communications Commission
RULES
Common carrier services:
37889 Rates for competitive common carrier services and facilities authorizations
37896 Telephone network, connection of terminal equipment; MTS and WATS; interstate and foreign classes; correction
Radio services, special:
37902 Land mobile services; cooperative use and multiple licensing of stations; compliance date deferred
Radio stations; table of assignments:
37896 Minnesota
37897 Texas
37899 Wyoming
Television stations; table of assignments:
37900 Arizona
37900 Arkansas
37901 Iowa
37901 Mississippi
37902 Nebraska
PROPOSED RULES
Radio stations; table of assignments:
37935 Florida
NOTICES
37956 Agency forms submitted to OMB for review
Hearings, etc.:
37957 Western Union Telegraph Co.
Meetings:
37956 Telecommunications Industry Advisory Group (2 documents)

Federal Home Loan Bank Board
NOTICES
37994 Meetings; Sunshine Act

Federal Reserve System
RULES
Interest on deposits (Regulation Q):
37878 Negotiable time deposits; member bank participation in secondary markets
37879 Repurchase agreements, automatically renewable
NOTICES
37957 Agency forms submtted to OMB for review
Applications, etc.:
37958 BankAmerica Corp.; correction
37994 Meetings; Sunshine Act

Food and Drug Administration
PROPOSED RULES
GRAS or prior-sanctioned ingredients:
37928 Calicium oxide and calcium hydroxide; correction
37931 Potassium hydroxide and sodium hydroxide
37928 Vitamin B–12
Human drugs:
37934 Anticholinergic (cough-cold) drug products and expectorant drug products for over-the-counter use; tentative final monograph; extension of time
NOTICES
Animal drugs, feeds, and related products:
37958 Norwich-Eaton Pharmaceuticals; furoxone suspension; withdrawal of approval
Food additives, petitions filed or withdrawn:
37958, 37959 Ciba-Geigy Corp. (2 documents)
37959 DeTer Co., Inc.
37959 Gulf Oil Corp.

Food and Nutrition Service
PROPOSED RULES
Food stamp program:
37905 State plans and operating guidelines, forms, and waivers

Health and Human Services Department
See also Child Support Enforcement Office; Food and Drug Administration; Human Development Services Office; National Institutes of Health.
NOTICES
37960 Agency forms submitted to OMB for review

Housing and Urban Development Department
See Solar Energy and Energy Conservation Bank.

Human Development Services Office
NOTICES
Meetings:
37960 Federal Council on Aging
Social services:
37960 Federal allotments to States; correction

Indian Affairs Bureau
NOTICES
37967 Alaska school transfers, proposed

Interior Department
See also Indian Affairs Bureau; Land Management Bureau; Surface Mining Reclamation and Enforcement Office.
NOTICES
Clean Air Act; adverse impact determinations:
37967 Theodore Roosevelt National Park and Lostwood National Wildlife Refuge, N. Dak.; inquiry reopened

International Development Cooperation Agency
See Agency for International Development; Overseas Private Investment Corporation.

International Trade Administration
NOTICES
Antidumping:
37943 Carbon steel wire nails from Japan; fourth quarter monitoring prices

International Trade Commission
NOTICES
37994 Meetings; Sunshine Act

Interstate Commerce Commission
RULES
Accounts, uniform system:
37903 Rate bureaus; accounting and reporting requirements, elimination
NOTICES
Motor carriers:
37968 Compensated intercorporate hauling operations; intent to engage in
37970, 37972 Permanent authority applications (2 documents)
37969 Permanent authority applications; correction
37969 Permanent authority applications; restriction removals
Railroad services abandonment:
37978 Chessie System
37978 Consolidated Rail Corp.
37978 Soo Line Railroad Co.

Justice Department
See Drug Enforcement Administration.

Labor Department
See Employment and Training Administration; Employment Standards Administration; Mine Safety and Health Administration.

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
37967 Otay Grazing, Calif.
Withdrawal and reservation of lands, proposed, etc.:
37967 Oregon; correction (2 documents)

Mine Safety and Health Administration
PROPOSED RULES
Coal mine health and safety:
38097 Underground coal mines; review of standards; advance notice; extension of time

National Institutes of Health
NOTICES
Recombinant DNA molecules research:
38040 Actions under guidelines
38048 Guidelines

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
37936 High seas salmon off Alaska; North Pacific Fishery Management Council hearing

National Science Foundation
NOTICES
Meetings:
37981 Mathematical and Computer Sciences Advisory Committee

Navy Department
NOTICES
37948, 37951 Privacy Act; systems of records (2 documents)

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
37981 Baltimore Gas & Electric Co.
37982 Commonwealth Edison Co.
37982 Florida Power & Light Co.
37983 General Electric Co.
37983 Indiana & Michigan Electric Co.
37984 Long Island Lighting Co.
37984 Portland General Electric Co. et al.
37985 South Carolina Electric & Gas Co. et al.; Virgil C. Summer Nuclear Station, Unit No. 1
Meetings:
37985 Regional State Liaison Officers

Overseas Private Investment Corporation
NOTICES
37985 Agency forms submitted to OMB for review

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
37994 Meetings; Sunshine Act

Personnel Management Office
NOTICES
37986 Agency forms submitted to OMB for review
Excepted service:
37986 Schedules A, B, and C; positions placed or revoked, update

President's Task Force on Private Sector Initiatives
NOTICES
37988 Meetings

Rural Electrification Administration
PROPOSED RULES
Electric borrowers:
37913 Line construction (Bulletin 50–3); post insulators, use
NOTICES
Environmental statements; availability, etc.:
37939 Wells Rural Electric Co.
Loan guarantees, proposed:
37938 E.N.M.R. Telephone Cooperative
37939 Navajo Communications Co., Inc.
37939 Soyland Power Cooperative, Inc.

Securities and Exchange Commission
PROPOSED RULES
Securities:
37920 Confirmations; disclosure requirements
37919 Confirmations; mark-up disclosure, etc.; withdrawn
NOTICES
Hearings, etc.:
37988 Flowers Industries, Inc.
37991 Tenneco Inc.
37992 Valley Water Co.
Self-regulatory organizations; proposed rule changes:
37989, 37990 National Securities Clearing Corp. (5 documents)
Self-regulatory organizations; unlisted trading privileges:
37988 Midwest Stock Exchange, Inc.

Soil Conservation Service
PROPOSED RULES
Support activities:
37907 Real property acquisition; recreation, fish, and wildlife purposes, etc.
NOTICES
Environmental statements; availability, etc.:
37940 Big Valley-Willow Creek Critical Area Treatment RC&D Measure, Calif.
37940 Pine Creek Watershed, Tex.

Solar Energy and Energy Conservation Bank
NOTICES
37960 Funding availability and solicitation of proposals

State Department
NOTICES
37993 Iran, claims against; Tribunal procedure rules

Surface Mining Reclamation and Enforcement Office
NOTICES
37968 Agency forms submitted to OMB for review

Treasury Department
See also Customs Service.
NOTICES
Organization, functions, and authority delegations:
37993 Customs Commissioner; Regulations
37993 Management and Organization Office, Chief; economic stabilization program; records access authorization

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
724 37859
726 37860
910 37861
1421 (6 documents) 37861–37874
Proposed Rules:
272 37905
273 37905
651 37907
981 37911
1011 37912
1701 37913

12 CFR
217 (2 documents) 37878, 37879

14 CFR
Proposed Rules:
323 37914
326 37914

17 CFR
1 37880
6 37880
Proposed Rules:
240 (2 documents) 37919, 37920

19 CFR
18 37880
Proposed Rules:
123 37924
134 37926
146 37927

21 CFR
Proposed Rules:
182 (3 documents) 37928, 37931
184 (3 documents) 37928, 37931
341 37934

30 CFR
Proposed Rules:
75 37097

40 CFR
80 38090
Proposed Rules:
80 (2 documents) 38070, 38078

41 CFR
Ch. 7 37882

45 CFR
302 37886
303 37886
304 37886
305 37886

47 CFR
Ch. I 37889
68 37896
73 (8 documents) 37896–37902
90 37902
95 37902
Proposed Rules:
73 37935

49 CFR
1211 37903
1253 37903

50 CFR
Proposed Rules:
674 37936

Rules and Regulations

Federal Register
Vol. 47, No. 167
Friday, August 27, 1982

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

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 724

[Amendment 3]

Fire-Cured, Dark-Air Cured, Virginia Sun-Cured, Cigar Binder, Cigar Filler and Binder—1981–82 Average Market Price and 1982–83 Penalty Rate

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the average market price received by producers of certain minor kinds of tobaccos for the 1981–82 marketing year and the penalty rate for excess tobacco for the 1982–83 marketing year for such kinds of tobacco. As required by Section 314 of the Agricultural Adjustment Act of 1938, as amended, marketing quota penalties are assessed at the rate of 75 percent of the previous year's average market price.

EFFECTIVE DATE: August 27, 1982.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–4281.
The Final Regulatory Impact Analysis covering this final rule will be available on request from Harry D. Millner.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291, and Secretary's Memorandum No. 1512–1, and has been classified "not major." This final rule has been classified as "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Marketing quota penalties are required by section 314 of the Agricultural Adjustment Act of 1938, as amended, to be assessed whenever a kind of tobacco is marketed in excess of the marketing quota established for the farm on which such tobacco is produced. The rate of penalty per pound for a kind of tobacco as prescribed by section 314 of the 1938 Act is 75 percent of the previous year's average market price for such tobacco.

Since the 1981-82 average market price producers received for tobacco and the rate of penalty reflect only mathematical computations which are required to be made in accordance with a statutory formula, it has been determined that no further public rulemaking is required. Accordingly, this rule shall become effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 724:

Marketing quotas, Penalties, Tobacco.

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55) TOBACCO

Accordingly, the regulations at 7 CFR Part 724 are amended by revising § 724.88(c) to read as follows:

§ 724.88 Rate of penalty.

* * * * *

(c)(1) *Average market price.* The average market prices for the kinds of tobaccos listed below as determined by the Crop Reporting Board for the marketing years specified below were:

AVERAGE MARKET PRICE

Marketing year	Kinds of tobacco	Cents per pound
1976–77	Fire-cured (type 21)	118.0
	Fire-cured (types 22, 23, 24)	142.2
	Dark air-cured	116.6
	Virginia sun-cured	105.0
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	72.8
	Cigar-binder (types 51 and 52)	89.6
1977–78	Fire-cured (type 21)	96.3
	Fire-cured (types 22, 23, 24)	125.6
	Dark air-cured	116.6
	Virginia sun-cured	100.0
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	82.8
	Cigar-binder (types 51 and 52)	121.3
1978–79	Fire-cured (type 21)	94.5
	Fire-cured (types 22, 23, 24)	113.6
	Dark air-cured	100.8
	Virginia sun-cured	88.8
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	96.1
	Cigar-binder (types 51 and 52)	144.9
1979–80	Fire-cured (type 21)	107.9
	Fire-cured (types 22, 23, 24)	115.2
	Dark air-cured	111.7
	Virginia sun-cured	90.8
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	114.9
	Cigar-binder (types 51 and 52)	155.5
1980–81	Fire-cured (type 21)	128.1
	Fire-cured (types 22, 23, 24)	139.4
	Dark air-cured	126.4
	Virginia sun-cured	127.1
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	123.5
	Cigar-binder (types 51 and 52)	180.0
1981–82	Fire-cured (type 21)	131.2
	Fire-cured (types 22, 23, 24)	161.1
	Dark air-cured	133.0
	Virginia sun-cured	131.7
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	110.0
	Cigar-binder (types 51 and 52)	182.1

(c)(2) *Rate of penalty per pound.* The penalty rate per pound for marketings of excess tobacco subject to marketing quotas during the marketing years specified below shall be:

RATE OF PENALTY

Marketing year	Kinds of tobacco	Cents per pound
1977-78	Fire-cured (type 21)	89
	Fire-cured (types 22, 23, 24)	107
	Dark air-cured	87
	Virginia sun-cured	79
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	55
	Cigar-binder (types 51 and 52)	(1)
1978-79	Fire-cured (type 21)	72
	Fire-cured (types 22, 23, 24)	94
	Dark air-cured	87
	Virginia sun-cured	75
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	62
	Cigar-binder (types 51 and 52)	(2)
1979-80	Fire-cured (type 21)	71
	Fire-cured (types 22, 23, 24)	85
	Dark air-cured	76
	Virginia sun-cured	67
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	72
	Cigar-binder (types 51 and 52)	(3)
1980-81	Fire-cured (type 21)	81
	Fire-cured (types 22, 23, 24)	86
	Dark air-cured	84
	Virginia sun-cured	68
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	86
	Cigar-binder (types 51 and 52)	117
1981-82	Fire-cured (type 21)	96
	Fire-cured (types 22, 23 and 24)	105
	Dark air-cured	95
	Virginia sun-cured	95
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	93
	Cigar-binder (types 51 and 52)	135
1982-83	Fire-cured (type 21)	98
	Fire-cured (types 22, 23, and 24)	121
	Dark air-cured	100
	Virginia sun-cured	99
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	83
	Cigar-binder (types 51 and 52)	137

[1] Quotas terminated for 1977 crop.
[2] Quotas terminated for 1978 crop.
[3] Quotas terminated for 1979 crop.

(Sec. 301, 313, 314, 320, 372, 375, 52 Stat. 38, as amended, 88 Stat. 1089, as amended, (7 U.S.C. 1301, 1313, 1314, 1314(f), 1372, 1375))

Signed at Washington, D.C. on August 20, 1982.

Clarence L. Tardy,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-23534 Filed 8-26-82; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 726

[Amendment 3]

Burley Tobacco—1981-82 Average Market Price and 1982-83 Penalty Rate

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule sets forth the average market price received by producers of burley tobacco for the 1981-82 marketing year and the penalty rate for excess tobacco for the 1982-83 marketing year for such kind of tobacco. As required by Section 314 of the Agricultural Adjustment Act of 1938, as amended, marketing quota penalties are assessed at the rate of 75 percent of the previous year's average market price.

EFFECTIVE DATE: August 27, 1982.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447-4281. The Final Regulatory Impact Analysis covering this final rule will be available on request from Harry D. Millner.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291, and Secretary's Memorandum 1512-1, and has been classified "not major." This final rule has been classified as "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Marketing quota penalties are required by Section 314 of the Agricultural Adjustment Act of 1938, as amended, to be assessed whenever a kind of tobacco is marketed in excess of the marketing quota established for the farm on which such tobacco is produced. The rate of penalty per pound for a kind of tobacco as prescribed by Section 314 of the 1938 Act is 75 percent of the previous year's average market price for such tobacco.

Since the 1981-82 average market price producers received for burley tobacco and the rate of penalty reflect only mathematical computations which are required to be made in accordance with a statutory formula, it has been determined that no further public rulemaking is required. Accordingly, this final rule shall become effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 726

Marketing quotas, Penalties, Tobacco.

PART 726—BURLEY TOBACCO

Accordingly, the regulations at 7 CFR Part 726 are amended by revising Section 726.86(c) to read as follows:

§ 726.86 Rate of penalty.

* * * * *

(c)(1) *Average market price.* The average market prices as determined by the Crop Reporting Board for the marketing years specified were:

AVERAGE MARKET PRICE

Marketing year	Per pound
1976-77	$1.14
1977-78	1.20
1978-79	1.31
1979-80	1.45
1980-81	1.66
1981-82	1.81

(2) *Rate of penalty per pound.* The penalty per pound for marketings of excess tobacco subject to marketing quotas during the marketing year specified shall be:

RATE OF PENALTY

Marketing year	Per pound
1977-78	$0.66
1978-79	0.90
1979-80	0.98
1980-81	1.09
1981-82	1.24
1982-83	1.36

(Sec. 301, 313, 314, 320, 372, 375, 52 Stat. 38, as amended, 88 Stat. 1089, as amended, (7 U.S.C. 1301, 1313, 1314, 1314c, 1314(f) 1372, 1375))

Signed at Washington, D.C. on August 20, 1982.

Clarence L. Tardy,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-23535 Filed 8-26-82; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 374]

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 Aug. 29–Sept. 4, 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 29, 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 24, 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 moderate.

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 910.674 is added as follows:

§ 910.674 Lemon Regulation 374.

The quantity of lemons grown in California and Arizona which may be handled during the period August 29, 1982, through September 4, 1982, is established at 245,000 cartons.

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

Dated: August 26, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service

[FR Doc. 82-23778 Filed 8-26-82; 1:19 pm]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1421

CCC Grain Price Support Regulations Governing the Loan and Purchase Program for 1982 and Subsequent Crops Sorghum

AGENCY: Commodity Credit Corporation.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the regulations governing the price support loan and purchase program for 1982 and subsequent crops of sorghum (1) to delete all references to normal crop acreage and set-aside requirements currently appearing at 7 CFR 1421.211; (2) to incorporate availability and maturity dates; and (3) to delete all references to the annual crop supplements that are no longer being codified.

DATES: This final rule shall become effective August 27, 1982.

ADDRESS: Director, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: H. E. Maynard, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447–8480.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with provisions of Secretary's Memorandum 1512–1 and Executive Order 12291 and has been classified "not major." It has been determined that the provisions of this final rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

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

The purpose of this rule is to amend the regulations governing the loan and purchase program for 1982 and subsequent crops of sorghum to include eligibility requirements, availability dates, and maturity dates for making loans and purchases, to delete references to the annual crop supplements for sorghum that are no longer being codified, and to delete certain other references which are no longer applicable to the program.

A separate Regulatory Impact Analysis was not prepared. The effects

of this final rule are primarily administrative. Significant impacts to the private sector would result from annual program determinations. There will be modest savings to the Government as the result of decodification.

Since compliance with set-aside and normal crop acreage requirements may no longer be necessary for price support loan eligibility, references to these requirements have been deleted. The loan availability dates and maturity dates which have previously been published in the **Federal Register** as an annual crop supplement are no longer being codified. Therefore, this continuing regulation is being revised to set forth these dates.

The availability date establishes the period during which the producer may request a price support loan or sign a purchase agreement. The maturity date defines the length of the price support loan and establishes the final date that loans on the commodity mature for that crop year. Since this final rule makes no substantive changes in the regulations but merely deletes certain obsolete references and generally incorporates and republishes certain existing provisions into a single continuing regulation, it has been determined that no further public rulemaking is required. Accordingly, this rule shall become effective August 27, 1982. Accordingly, the general regulations governing price support for 1978 and subsequent crops of sorghum as set forth at 7 CFR § 1421.210 through § 1421.218 and the title of the subpart are amended as stated herein for the 1982 and subsequent crops of sorghum. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Price support programs, Surety bonds, Warehouses.

Final Rule

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

* * * * *

Accordingly, 7 CFR Part 1421 is amended by revising the subpart and subpart heading for sorghum as follows:

Subpart—Loan and Purchase Program for 1982 and Subsequent Crops Sorghum

Sec.

1421.210 Purpose.
1421.211 Eligible sorghum.
1421.212 Determination of quality.
1421.213 Determination of quantity.
1421.214 Warehouse receipts.
1421.215 Fees and charges.
1421.216 Warehouse charges.
1421.217 Availability.
1421.218 Maturity of loans and expiration of purchase agreements.
1421.219 Support rates.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105 B, 401, 95 Stat. 1227, 63 Stat. 1051, as amended (7 U.S.C. 1444d, 1421).

Subpart—Loan and Purchase Program for 1982 and Subsequent Crops Sorghum

§ 1421.210 Purpose.

This subpart contains program provisions which, together with (a) the General Regulations Governing Price Support for the 1978 and Subsequent Crops, (b) the Cooperative Marketing Associations eligibility requirements for price support as set forth in Part 1425 of this title and (c) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1982 and subsequent crops of sorghum.

§ 1421.211 Eligible sorghum.

(a) *General.* (1) In order to be eligible for a price support loan or purchase agreement, the sorghum must be merchantable for food, feed, or for other uses, as determined by the Commodity Credit Corporation (CCC), and must not contain mercurial compounds, toxin-producing molds, or other substances poisonous to humans or animals.

(2) The sorghum must have been produced by a producer who has complied with the program eligibility requirements prescribed in Parts 713, 718, and 791 of this title and any amendments thereto.

(b) *Warehouse-stored loan grade requirements.* In order to be eligible for a warehouse-stored loan, the sorghum must also meet the following requirements:

(1) The sorghum must grade No. 4 or better, except for moisture, and may carry the special grade designation "Smutty."

(2) The sorghum must not grade "Weevily" or have moisture over 14 percent unless the warehouse receipt representing the sorghum is accompanied by a supplemental certificate which provides that the warehouseman shall deliver sorghum which is not "Weevily," does not contain in excess of 14 percent moisture, and is otherwise of an eligible grade and quality. The grade, quality, and quantity shown on the supplemental certificate shall be as provided in § 1421.214(c).

§ 1421.212 Determination of quality.

The class, grade, grading factors, and all other quality factors shall be based on the Official Grain Standards of the United States for Sorghum, whether or not such determinations are made on the basis of an official inspection. The cost of official grade determinations when made shall not be for the account of CCC.

§ 1421.213 Determination of quantity.

When the quantity is determined by weight, a hundredweight shall be 100 pounds of sorghum free of dockage.

(a) *In warehouse.* The quantity of sorghum on which a warehouse-stored loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net weight specified on the warehouse receipt or on the supplemental certificate, if applicable. If the sorghum has been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the receiving weight excluding dockage of 1.2 times the percentage difference between the moisture content of the sorghum, when received, and 14 percent.

(b) *On farm.* The quantity of sorghum eligible to be placed under a farm-stored loan shall be determined in accordance with § 1421.17. The quantity acquired by CCC from farm storage under a loan or purchase agreement shall be determined by the weight of the sorghum at the time of delivery to CCC.

§ 1421.214 Warehouse receipts

Warehouse receipts tendered to CCC in connection with a price support loan or purchase agreement must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and class of sorghum.

(b) *Entries.* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt must show: (1) Gross and net weight, (2) class, (3) grade (including special grades), (4) test weight, (5) moisture content if above 14 percent, (6) dockage, (7) any other grading factor(s) when such factor(s) and not test weight determine the grade, (8) whether the sorghum arrived by rail, truck, or barge, (9) the date the sorghum was received or deposited in the warehouse, and (10) the storage start date.

(c) *Where warehouse receipts shows "Weevily," excess moisture, or both.* If a

warehouse receipt tendered as security for a loan indicates that the sorghum grades "Weevily" or contains over 14 percent moisture, or both, the warehouse receipt must be accompanied by a supplemental certificate as provided in §1421.211(b)(2) in order for the sorghum to be eligible for price support. The grade, grading factors, and quantity to be delivered must be shown on the supplemental certificate as follows:

(1) When the warehouse receipt shows "Weevily" and the sorghum has been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt.

(2) When the warehouse receipt shows a moisture content of over 14 percent and the sorghum has been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending the sorghum to a moisture of not over 14 percent which shall reflect a drying or blending shrink as specified in § 1421.213(a). The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from CCC or any subsequent holder of the warehouse receipt. In the case of conditions specified in paragraphs (c) (1) and (2) of this section, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* Warehouse receipts and the sorghum represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "UGSA") may be subject to liens for warehouse charges only to the extent indicated in § 1421.216. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the sorghum when CCC is holder of the warehouse receipt.

(e) *Freight certificate requirements.* Warehouse receipts representing sorghum which has been shipped by rail or by barge utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission (ICC), from a country shipping point to a normal trade channel market or to a storage point and stored intransit to a normal trade channel market, must be accompanied by supplemental certificates. These certificates must be representative as to origin and date of movement of the sorghum and must reflect the rate of freight paid into the storage point and the amount of penalty, if any, for out-of-line haul. The form of the certificates will be prescribed by the Agricultural Stabilization and Conservation Service Kansas City Commodity Office (ASCS–KCCO) and shall be signed by the warehouseman.

§ 1421.215 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11.

§ 1421.216 Warehouse charges.

(a) *Storage charges.* The ASCS-KCCO approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan rate or purchase price in the case of sorghum stored in an approved warehouse operated under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. No storage deductions shall be made if written evidence is submitted with the warehouse receipts that (1) storage charges have been prepaid through the loan maturity date, or (2) the producer has arranged with the warehouseman for the payment of storage charges through loan maturity and the warehouseman enters an endorsement in substantially the following form on the warehouse receipt: "Warehouse storage charges accrued or to accrue prior to the acquisition by CCC of the sorghum represented by this warehouse receipt have been paid or otherwise provided for through the applicable maturity date and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt."

(b) *Storage start date.* The beginning date to be used for computing the storage deduction on sorghum stored in warehouses operating under the UGSA shall be the later of the following: (1) The date the sorghum was received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

§ 1421.217 Availability.

(a) *Loans.* If a producer desires to participate in the price support loan program, such producer must request a loan on or before May 31 of the year following the year the crop is normally harvested.

(b) *Purchases.* If a producer desires to enter into a purchase agreement with CCC by offering eligible sorghum which is not under loan, such producer must execute and deliver to the county ASCS office on or before May 31 of the year following the year the crop is normally harvested a Purchase Agreement (Form CCC–614) indicating the approximate quantity of sorghum the producer will sell to CCC.

§ 1421.218 Maturity of loans and expiration of purchase agreements.

(a) *Loans.* Loans mature on demand but not later than the last day of the ninth calendar month following the month in which the loan was disbursed.

(b) *Purchase Agreements.* Purchase agreements expire on the last day of the ninth calendar month following the month in which the purchase agreement is approved.

§ 1421.219 Support rates.

Basic county support rates for sorghum and the schedule of premiums and discounts will be available at the county ASCS office for the applicable crop each year. Farm-stored sorghum loans will be made at the applicable basic county support rate for the county where stored, adjusted only for the weed control discount where applicable. The support rate for warehouse-stored sorghum loans and for sorghum acquired by CCC through the purchase program or sorghum delivered in settlement of a farm-stored loan shall be the applicable basic support rate for the county where stored adjusted in accordance with the provisions of this section and the premiums and discounts which are available at the county ASCS office for the applicable crop each year on the basis of quality factors on warehouse receipts or supplemental certificates in the case of sorghum stored in or delivered to an approved warehouse or on such other form as CCC may prescribe in the case of sorghum delivered to other than an approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of § 1421.22. If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to consitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

(a) *Basic support rates for farm-stored sorghum.* The applicable basic support rate for farm-stored loans shall be the basic county support rate established for the county in which the sorghum is stored.

(b) *Basic support rates for warehouse-stored sorghum received by rail or utilizing combination barge-rail rates.*— (1) *When shipped by rail.* The

applicable basic support rate for warehouse-stored loans on sorghum which was received by rail and stored in an approved warehouse which is in line of normal commercial channels of trade shall be determined by adding to the basic support rate established for the county from which the sorghum was shipped the following: (i) The amount of freight charges per hundredweight actually paid in and (ii) an amount equal to the truck receiving and rail loading-out charges in effect for the shipping warehouse. If the sorghum is destined to a normal trade channel market that would be used in commercial channels of trade but such sorghum is stored in an approved warehouse resulting in additional costs because of out-of-line movement, such additional costs shall be deducted from the support rates as otherwise determined in this paragraph.

(2) *When shipped utilizing combination barge-rail rates.* The applicable basic support rate for warehouse-stored loans on sorghum which is stored in an approved warehouse and which was shipped utilizing combination barge-rail freight rates, published and on file with the ICC, shall be determined by adding to the basic support rate established for the county from which the sorghum was shipped the following: (i) The amount of freight charges per hundredweight actually paid in and (ii) an amount equal to the truck receiving and rail loading-out charges computed in accordance with the applicable rates of the UGSA in effect at the time the loan is made. If the sorghum is destined to a normal trade channel market that would be used in commercial channels of trade but such sorghum is stored in an approved warehouse resulting in additional costs because of out-of-line movement, such additional costs shall be deducted from the support rates as otherwise determined in this paragraph.

(c) *Basic support rates for warehouse-stored sorghum received by truck or nontariff barge.* (1) The basic support rate for sorghum delivered by truck by the producer to a warehouse at normal delivery point shall be the rate for the county where the sorghum is stored.

(2) The basic support rate for sorghum delivered by truck by the producer to an in-line warehouse located 20 miles or more beyond the normal delivery point shall be the support rate for the county from which shipped plus the smaller of the actual freight charge or the following truck freight rate from the farm to the storing warehouse minus the distance from the farm to the producer's normal delivery point.

Map mileage	Allowance
0 to 19	
20 to 50	$0.268 per hundredweight.
51 to 100 add	$0.0029 per hundredweight per mile.
101 to 125 add	$0.0014 per hundredweight per mile.
126 and over add	$0.0007 per hundredweight per mile.

(3) The basic support rate for sorghum delivered to a warehouse and shipped by truck 20 miles or more to an in-line warehouse shall be the total of: (i) The support rate for the county in which the shipping warehouse is located; (ii) the smaller of the actual freight charge or the amount of the truck freight from the schedule shown in paragraph (c)(2); and (iii) the truck receiving and truck load-out charges for the shipping warehouse.

(4) The basic support rate for sorghum shipped by barge or truck-barge at a negotiated rate when map mileage from the origin warehouse is 20 miles or more to an in-line warehouse shall be the total of (i) the support rate for the county from where shipped; (ii) the smaller of the actual freight charge or the amount of the truck freight from schedule shown in paragraph (c)(2); and (iii) the origin truck receiving and load-out charge.

(d) *Storing responsibilities.* With respect to sorghum received by rail or by combination barge-rail, the storing warehouseman shall be responsible for determining the normal trade channel market that would be used in commercial channels of trade. The storing warehouseman shall also execute supplemental certificates showing: (1) The rate of freight paid into the storage point; (2) the amount of penalty, if any, for backhaul or out-of-line movement; (3) the applicable normal trade channel market that would be used in commercial channels of trade; and (4) any other information which may be prescribed by CCC. The warehouseman is responsible to CCC for the accuracy or omissions of information on the supplemental certificate. Warehouseman liability, if any, for the failure to comply with the provisions of this paragraph will be determined in accordance with the provisions of the UGSA after acquisition of the warehouse receipt by CCC.

Signed at Washington, D.C., on August 23, 1982.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-23569 Filed 8-26-82; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1421

Grain Price Support Regulations Governing the Loan and Purchase Program for 1982 and Subsequent Crops Corn

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the regulations governing the price support loan and purchase program for 1982 and subsequent crops of corn (1) to delete all references to normal crop acreage and set-aside requirements currently appearing at 7 CFR 1421.91; (2) to incorporate availability and maturity dates; and (3) to remove all references to the annual crop supplements that are no longer being codified.

DATES: This final rule shall become effective August 27, 1982.

ADDRESS: Director, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: H. E. Maynard, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447-8480.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with provisions of Secretary's Memorandum 1512-1 and Executive Order 12291 and has been classified "not major." It has been determined that the provisions of this final rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loans and

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

The purpose of this rule is to amend the regulations governing the loan and purchase program for 1982 and subsequent crops of corn to include eligibility requirements, availability dates, and maturity dates for making loans and purchases, to delete references to the annual crop supplements for corn that are no longer being codified, and to delete certain other references which are no longer applicable to the program.

A separate Regulatory Impact Analysis was not prepared. The effects of this final rule are primarily administrative. Significant impacts to the private sector would be the result of annual program determinations.

There will be modest savings to the Government as the result of decodification.

Since compliance with any set-aside and normal crop acreage requirements may no longer be necessary for price support loan eligibility, references to these requirements have been deleted. The loan availability dates and maturity dates which have previously been published in the **Federal Register** as an annual crop supplement are no longer being codified. Therefore, this continuing regulation is being revised to set forth these dates.

The availability date establishes the period during which the producer may request a price support loan or sign a purchase agreement. The maturity date defines the length of the price support loan and establishes the final date that loans on the commodity mature for that crop year. Since this final rule makes no substantive changes in the regulations but merely deletes certain obsolete references and generally incorporates and republishes certain existing provisions into a single continuing regulation, it has been determined that no further public rulemaking is required. Accordingly, this rule shall become effective upon date of publication in the **Federal Register.**

Accordingly, the general regulations governing price support for 1978 and subsequent crops of corn as set forth at 7 CFR 1421.90 through 1421.98 and the title of the subpart are amended as stated herein for the 1982 and subsequent crops of corn. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Price support programs, Surety bonds, Warehouses.

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Accordingly 7 CFR Part 1421 is amended by revising the subpart and subpart heading for corn as follows:

* * * * *

Subpart—Loan and Purchase Program for 1982 and Subsequent Crops Corn

Sec.

1421.90 Purpose
1421.91 Eligible corn.
1421.92 Determination of quality.
1421.93 Determination of quantity.
1421.94 Warehouse receipts.
1421.95 Fees and charges.
1421.96 Warehouse charges.
1421.97 Availability.
1421.98 Maturity of loans and expiration of purchase agreements.
1421.99 Support rates.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105B, 401, 95 Stat. 1227, 63 Stat. 1051, as amended (7 U.S.C. 1444d, 1421).

Subpart—Loan and Purchase Program for 1982 and Subsequent Crops Corn

§ 1421.90 Purpose.

This subpart contains program provisions which, together with (a) the General Regulations Governing Price Support for the 1978 and Subsequent Crops, (b) the Cooperative Marketing Associations eligibility requirements for price support as set forth in Part 1425 of this title and (c) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1982 and subsequent crops of corn.

§ 1421.91 Eligible corn.

(a) *General.* (1) In order to be eligible for a price support loan or purchase agreement, the corn must be merchantable for food, feed, or for other uses, as determined by the Commodity Credit Corporation (CCC), and must not contain mercurial compounds, toxin-producing molds, or other substances poisonous to humans or animals.

(2) The corn must have been produced by a producer who has complied with the program eligibility requirements prescribed in Parts 713, 718, and 791 of this title and any amendments thereto.

(b) *Shelling requirements.* The corn may be ear or shelled corn: *Provided,* That the corn must be shelled before being placed under a warehouse-stored loan or before delivery is made under a farm-stored loan or purchase. If the corn is not shelled prior to delivery, the cost of shelling on or after delivery shall be for the account of the producer. A producer with a farm-stored loan on ear corn may with the approval of the county Agricultural Stabilization and Conservation committee shell the corn and keep it under loan on the farm.

(c) *Warehouse-stored loan grade requirements.* In order to be eligible for a warehouse-stored loan, corn must also meet the following requirements:

(1) The corn must, except for moisture and test weight, grade No. 3 or better, or No. 4 or better on the factor of test weight.

(2) The corn must not grade "Weevily" or have moisture over 15.5 percent unless the warehouse receipt representing the corn is accompanied by a supplemental certificate which provides that the warehouseman shall deliver corn which is not "Weevily," does not contain in excess of 15.5 percent moisture, and is otherwise of an eligible grade and quality. The grade, quality, and quantity shown on the supplemental certificate shall be as provided in § 1421.94(c).

§ 1421.92 Determination of quality.

The class, grade, grading factors, and all other quality factors shall be based on the Official Grain Standards of the United States for Corn, whether or not such determinations are made on the basis of an official inspection. The cost of official grade determinations when made shall not be for the account of CCC.

§ 1421.93 Determination of quantity.

When the quantity is determined by weight, a bushel shall be 56 pounds of corn free of dockage.

(a) *In warehouse.* The quantity of corn on which a warehouse-stored loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net bushels specified on the warehouse receipt or on the supplemental certificate, if applicable. If the corn has been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the receiving weight excluding dockage of 1.2 times the percentage difference between the moisture content of the corn, when received, and 15.5 percent.

(b) *On farm.* The quantity of corn eligible to be placed under a farm-stored

loan shall be determined in accordance with § 1421.17. The quantity acquired by CCC from farm storage under a loan or purchase agreement shall be determined by the weight of the corn at the time of delivery to CCC.

§ 1421.94 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a price support loan or purchase agreement must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and class of corn.

(b) *Entries.* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt must show: (1) Gross weight and net bushels, (2) class, (3) grade (including special grades), (4) test weight, (5) moisture (6) broken corn and foreign material, (7) any other grading factor(s) when such factor(s) and not test weight determine the grade, (8) whether the corn arrived by rail, truck, or barge, (9) the date the corn was received or deposited in the warehouse, and (10) the storage start date.

(c) *Where warehouse receipt shows "Weevily," excess moisture, or both.* If a warehouse receipt tendered as security for a loan indicates that the corn grades "Weevily" or contains over 15.5 percent moisture, or both, the warehouse receipt must be accompanied by a supplemental certificate as provided in § 1421.91(c)(2) in order for the corn to be eligible for price support. The grade, grading factors, and quantity to be delivered must be shown on the supplemental certificate as follows:

(1) When the warehouse receipt shows "Weevily" and the corn has been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt.

(2) When the warehouse receipt shows a moisture content of over 15.5 percent and the corn has been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending the corn to a moisture of not over 15.5 percent which shall reflect a drying or blending shrink as specified in § 1421.93(a). The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from CCC or any subsequent holder of the warehouse receipt. In the case of conditions specified in subparagraphs (1) and (2) of this paragraph, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* Warehouse receipts and the corn represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "UGSA") may be subject to liens for warehouse charges only to the extent indicated in § 1421.96. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the corn when CCC is holder of the warehouse receipt.

§ 1421.95 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11.

§ 1421.96 Warehouse charges.

(a) *Storage charges.* The Agricultural Stabilization and Conservation Service Kansas City Commodity Office (ASCS–KCCO) approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan rate or purchase price in the case of corn stored in an approved warehouse operated under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. No storage deductions shall be made if written evidence is submitted with the warehouse receipts that (1) storage charges through the loan maturity date have been prepaid, or (2) the producer has arranged with the warehouseman for the payment of storage charges through loan maturity and the warehouseman enters an endorsement in substantially the following form on the warehouse receipt: "Warehouse storage charges accrued or to accrue prior to the acquisition by CCC of the corn represented by this warehouse receipt have been paid or otherwise provided for through the applicable maturity date and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt."

(b) *Storage start date.* The beginning date to be used for computing the storage deduction on corn stored in warehouses operating under the UGSA shall be the later of the following: (1) The date the corn was received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

§ 1421.97 Availability.

(a) *Loans.* If a producer desires to participate in the price support loan program, such producer must request a loan on or before May 31 of the year following the year the crop is normally harvested.

(b) *Purchases.* If a producer desires to enter into a purchase agreement with CCC by offering eligible corn which is not under loan, such producer must execute and deliver to the county ASCS office on or before May 31 of the year following the year the crop is normally harvested a Purchase Agreement (Form CCC–614) indicating the approximate quantity of corn the producer will sell to CCC.

§ 1421.98 Maturity of loans and expiration of purchase agreements.

(a) *Loans.* Loans mature on demand but not later than the last day of the ninth calendar month following the month in which the loan was disbursed.

(b) *Purchase Agreements.* Purchase agreements expire on the last day of the ninth calendar month following the month in which the purchase agreement is approved.

§ 1421.99 Support rates.

Basic county support rates for corn and the schedule of premiums and discounts will be available in the county ASCS office for the applicable crop each year. Farm-stored corn loans will be made at the applicable basic county support rate for the county where stored, adjusted only for the weed control discount where applicable. The support rate for warehouse-stored corn loans and for corn acquired by CCC through the purchase program or corn delivered in settlement of a farm-stored loan shall be the applicable basic support rate for the county where stored adjusted in accordance with the provisions of this section and the premiums and discounts which are available in the county ASCS office for the applicable crop each year on the basis of quality factors on warehouse receipts or supplemental certificates in the case of corn stored in or delivered to an approved warehouse or on such other form as CCC may prescribe in the case of corn delivered to other than an approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of § 1421.22. If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

Signed at Washington, D.C., on August 23, 1982.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-23565 Filed 8-26-82; 8:45 am]

BILLING CODE 3410-03-M

7 CFR Part 1421

CCC Grain Price Support Regulations Governing the Loan and Purchase Program for 1982 and Subsequent Crops Oats

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the regulations governing the price support loan and purchase program for 1982 and subsequent crops of oats (1) to delete all references to normal crop acreage and set-aside requirements currently appearing at 7 CFR 1421.246; (2) to incorporate availability and maturity dates; and (3) to remove all references to the annual crop supplements that are no longer being codified.

DATES: This final rule shall become effective August 27, 1982.

ADDRESS: Director, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: H. E. Maynard, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447-8480.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with provisions of Secretary's Memorandum 1512-1 and Executive Order 12291 and has been classified "not major." It has been determined that the provisions of this final rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

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

The purpose of this rule is to amend the regulations governing the loan and purchase program for 1982 and subsequent crops of oats to include eligibility requirements, availability dates, and maturity dates for making loans and purchases, to delete references to the annual crop supplements for oats that are no longer being codified, and to delete certain other references which are no longer applicable to the program.

A separate Regulatory Impact Analysis was not prepared. The effects of this final rule are primarily administrative. Significant impacts to the private sector would be the result of annual program determinations. There will be modest savings to the Government as the result of decodification.

Since compliance with any set-aside and normal crop acreage requirements may no longer be necessary for price support loan eligibility, references to that requirement have been deleted. The loan availability dates and maturity dates which have previously been published in the **Federal Register** as an annual crop supplement are no longer being codified. Therefore, this continuing regulation is being revised to set forth these dates.

The availability date establishes the period during which the producer may request a price support loan or sign a purchase agreement. The maturity date defines the length of the price support loan and establishes the final date that loans on the commodity mature for that crop year. Since this final rule makes no substantive changes in the regulations but merely deletes certain obsolete references and generally incorporates and republishes certain existing provisions into a single continuing regulation, it has been determined that no further public rulemaking is required. Accordingly, this rule shall become effective upon date of publication in the **Federal Register.**

Accordingly, the general regulations governing price support for 1978 and subsequent crops of oats as set forth at 7 CFR 1421.245 through 1421.253 and the title of the subpart are amended as stated herein for the 1982 and subsequent crops of oats. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs—agriculture, Price support programs, Surety bonds, Warehouses.

Final Rule

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Accordingly, 7 CFR Part 1421 is amended by revising the Subpart and Subpart heading for oats

* * * * * *

Subpart—Loan and Purchase Program for 1982 and Subsequent Crops Oats

Sec.

1421.245 Purpose.
1421.246 Eligible oats.
1421.247 Determination of quality.
1421.248 Determination of quantity.
1421.249 Warehouse receipts.
1421.250 Fees and charges.
1421.251 Warehouse charges.
1421.252 Availability.
1421.253 Maturity of loans and expiration of purchase agreements.
1421.254 Support rates.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105B, 401, 95 Stat. 1227, 63 Stat. 1051, as amended (7 U.S.C. 1444d, 1421).

Subpart—Loan and Purchase Program for 1982 and Subsequent Crops of Oats

§ 1421.245 Purpose.

This subpart contains program provisions which, together with (a) the General Regulations Governing Price Support for the 1978 and Subsequent Crops, (b) the Cooperative Marketing Associations eligibility requirements for price support as set forth in Part 1425 of this title and (c) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1982 and subsequent crops of oats.

§ 1421.246 Eligible oats.

(a) *General.* (1) In order to be eligible for a price support loan or purchase agreement, the oats must be merchantable for food, feed, or for other uses, as determined by the Commodity Credit Corporation (CCC), and must not contain mercurial compounds, toxin-producing molds, or other substances poisonous to humans or animals.

(2) The oats must have been produced by a producer who has complied with the program eligibility requirements prescribed in Parts 713, 718, and 791 of this title and any amendments thereto.

(b) *Warehouse-stored loan grade requirements.* In order to be eligible for a warehouse-stored loan, the oats must also meet the following requirements:

(1) The oats must grade No. 3 or better, except that: (i) The oats may grade No. 4 on the factor of test weight and/or because of being badly stained or materially weathered and (ii) the oats may have the special grade designation "Garlicky."

(2) The oats must not grade "Smutty," "Ergoty," "Bleached," "Thin," or otherwise distinctly low quality.

(3) The oats must not grade "Weevily" or have moisture over 14 percent unless the warehouse receipt representing the oats is accompanied by a supplemental certificate which provides that the warehouseman shall deliver oats which are not "Weevily," does not contain in excess of 14 percent moisture, and are otherwise of an eligible grade and quality. The grade, quality, and quantity shown on the supplemental certificate shall be as provided in § 1421.249(c).

§ 1421.247 Determination of quality.

The class, grade, grading factors, and all other quality factors shall be based on the Official Grain Standards of the United States for oats, whether or not such determinations are made on the basis of an official inspection. The cost of official grade determinations when made shall not be for the account of CCC.

§ 1421.248 Determination of quantity.

When the quantity is determined by weight, a bushel shall be 32 pounds of oats.

(a) *In warehouse.* The quantity of oats on which a warehouse-stored loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net bushels specified on the warehouse receipt or on the supplemental certificate, if applicable. If the oats have been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the receiving weight of 1.2 times the percentage difference between the moisture content of the oats, when received, and 14 percent.

(b) *On farm.* The quantity of oats eligible to be placed under a farm-stored loan shall be determined in accordance with § 1421.17. The quantity acquired by CCC from farm storage under a loan or purchase agreement shall be determined by the weight of the oats at the time of delivery to CCC.

§ 1421.249 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a price support loan or purchase agreement must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and class of oats.

(b) *Entries.* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt must show: (1) Net weight and bushels, (2) class, (3) grade (including special grades), (4) test weight, (5) moisture content if above 14 percent, (6) any other grading factor(s) when such factor(s) and not test weight determine the grade, (7) whether the oats arrived by rail, truck, or barge, (8) the date the oats were received or deposited in the warehouse, and (9) the storage start date.

(c) *Where warehouse receipt shows "Weevily," excess moisture, or both.* If a warehouse receipt tendered as security for a loan indicates that the oats grade "Weevily" or contain over 14 percent moisture, or both, the warehouse receipt must be accompanied by a supplemental certificate as provided in § 1421.246(b)(3) in order for the oats to be eligible for price support. The grade, grading factors, and quantity to be delivered must be shown on the supplemental certificate as follows:

(1) When the warehouse receipt shows "Weevily" and the oats have been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt.

(2) When the warehouse receipt shows a moisture content of over 14 percent and the oats have been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending the oats to a moisture of not over 14 percent which shall reflect a drying or blending shrink as specified in § 1421.248(a). The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from CCC or any subsequent holder of the warehouse receipt. In the case of conditions specified in paragraphs (c) (1) and (2) of this section, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* Warehouse receipts and the oats represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "UGSA") may be subject to liens for warehouse charges only to the extent indicated in § 1421.251. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the oats when CCC is holder of the warehouse receipt.

§ 1421.250 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11.

§ 1421.251 Warehouse charges.

(a) *Storage charges.* The Agricultural Stabilization and Conservation Service Kansas City Commodity Office (ASCS–KCCO) approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan rate or purchase price in the case of oats stored in an approved warehouse operated under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. No storage deductions shall be made if written evidence is submitted with the warehouse receipts that (1) storage charges through the loan maturity date have been prepaid, or (2) the producer has arranged with the warehouseman for the payment of storage charges through loan maturity and the warehouseman enters an endorsement in substantially the following form on the warehouse receipt:

"Warehouse storage charges accrued or to accrue prior to the acquisition by CCC of the oats represented by this warehouse receipt have been paid or otherwise provided for through the applicable maturity date and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt."

(b) *Storage start date.* The beginning date to be used for computing the storage deduction on oats stored in warehouses operating under the UGSA shall be the later of the following: (1) The date the oats were received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

§ 1421.252 Availability.

(a) *Loans.* If a producer desires to participate in the price support loan program, such producer must request a loan on or before March 31 of the year following the year the crop is normally harvested.

(b) *Purchases.* If a producer desires to enter into a purchase agreement with CCC by offering eligible oats which are not under loan, such producer must execute and deliver to the county ASCS office on or before March 31 of the year following the year the crop is normally harvested a Purchase Agreement (Form CCC–614) indicating the approximate quantity of oats the producer will sell to CCC.

§ 1421.253 Maturity of loans and expiration of purchase agreements.

(a) *Loans.* Loans mature on demand but not later than the last day of the ninth calendar month following the month in which the loan was disbursed.

(b) *Purchase Agreements.* Purchase agreements expire on the last day of the ninth calendar month following the month in which the purchase agreement is approved.

§ 1421.254 Support rates.

Basic county support rates for oats and the schedule of premiums and discounts will be available in the county ASCS office for the applicable crop each year. Farm-stored oat loans will be made at the applicable basic county support rate for the county where stored, adjusted only for the weed control discount where applicable. The support rate for warehouse-stored oat loans and for oats acquired by CCC through the purchase program or oats delivered in settlement of a farm-stored loan shall be the applicable basic support rate for the county where stored, adjusted in accordance with the provisions of this section and the discounts which are available in the county ASCS office for the applicable crop year on the basis of quality factors on warehouse receipts of supplemental certificates in the case of oats stored in or delivered to an approved warehouse or on such other form as CCC may prescribe in the case of oats delivered to other than an approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of § 1421.22. If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

Signed at Washington, D.C., on August 23, 1982.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-23568 Filed 8-26-82; 8:45 am]

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7 CFR Part 1421

Grain Price Support Regulations Governing the Loan and Purchase Program for 1982 and Subsequent Crops Rye

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the regulations governing the price support loan and purchase program for 1982 and subsequent crops of rye: (1) To delete all references to normal crop acreage and set-aside requirements currently appearing at 7 CFR 1421.336; (2) to incorporate availability and maturity dates; and (3) to delete all references to the annual crop supplements that are no longer being codified.

DATES: This final rule shall become effective August 27, 1982.

ADDRESS: Director, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: H. E. Maynard, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447–8480.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with provisions of Secretary's Memorandum 1512–1 and Executive Order 12291 and has been classified "not major." It has been determined that the provisions of this final rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

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

The purpose of this rule is to amend the regulations governing the loan and purchase program for 1982 and subsequent crops of rye to include eligibility requirements, availability dates, and maturity dates for making loans and purchases, to delete references to the annual crop supplements for rye that are no longer being codified, and to delete certain other references which are no longer applicable to the program.

A separate Regulatory Impact Analysis was not prepared. The effects of this final rule are primarily administrative. Significant impacts to the private sector would result from annual program determinations.

There will be modest savings to the Government as the result of decodification.

Since compliance with set-aside normal crop acreage requirements may no longer be necessary for price support loan eligibility, references to these requirements have been deleted. The loan availability dates and maturity dates which have previously been published in the **Federal Register** as an annual crop supplement are no longer being codified. Therefore, this continuing regulation is being revised to set forth these dates.

The availability date establishes the period during which the producer may request a price support loan or sign a purchase agreement. The maturity date defines the length of the price support loan and establishes the final date that loans on the commodity mature for that crop year. Since this final rule makes no substantive changes in the regulations but merely deletes certain obsolete references and generally incorporates and republishes certain existing provisions into a single continuing regulation, it has been determined that no further public rulemaking is required. Accordingly, this rule shall become effective upon date of publication in the **Federal Register.** Accordingly, the general regulations governing price

support for 1978 and subsequent crops of rye as set forth at 7 CFR 1421.335 through § 1421.343 and the title of the subpart are amended as stated herein for the 1982 and subsequent crops of rye. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Price support programs, Surety bonds, Warehouses.

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Accordingly, 7 CFR Part 1421 is amended by revising the Subpart and Subpart heading for rye as follows:

* * * * * *

Subpart—Loan and Purchase Program for 1982 and Subsequent Crops Rye

Sec.

1421.335 Purpose.
1421.336 Eligible rye.
1421.337 Determination of quality.
1421.338 Determination of quantity.
1421.339 Warehouse receipts.
1421.340 Fees and charges.
1421.341 Warehouse charges.
1421.342 Availability.
1421.343 Maturity of loans and expiration of purchase agreements.
1421.344 Support rates.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105 B, 401, 95 Stat. 1227, 63 Stat. 1051, as amended (7 U.S.C. 1444d, 1421)

Subpart—Loan and Purchase Program for 1982 and Subsequent Crops Rye

§ 1421.335 Purpose.

This subpart contains program provisions which, together with: (a) The General Regulations Governing Price Support for the 1978 and Subsequent Crops, (b) the Cooperative Marketing Associations eligibility requirements for price support as set forth in Part 1425 of this title and (c) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1982 and subsequent crops of rye.

§ 1421.336 Eligible rye.

(a) *General.* (1) In order to be eligible for a price support loan or purchase agreement, the rye must be merchantable for food, feed, or for other uses, as determined by the Commodity Credit Corporation (CCC), and must not contain mercurial compounds, toxin-producing molds, or other substances poisonous to humans or animals.

(2) The rye must have been produced by a producer who has complied with the program eligibility requirements prescribed in Parts 713, 718, and 791 of this title and any amendments thereto.

(b) *Warehouse-stored loan grade requirements.* In order to be eligible for a warehouse-stored loan, the rye must also meet the following requirements:

(1) The rye must grade No. 2 or better, except that: (i) The rye may grade "U.S. No. 3" on the factor of test weight or "thin" grade, or both, but otherwise must grade U.S. No. 2 or better.

(2) The rye must not grade "Light Smutty," "Light Garlicky," "Garlicky," or contain in excess of 1 percent "Ergoty."

(3) The rye must not grade "Weevily" or have moisture over 14 percent unless the warehouse receipt representing the rye is accompanied by a supplemental certificate which provides that the warehouseman shall deliver rye which is not "Weevily," does not contain in excess of 14 percent moisture, and is otherwise of an eligible grade and quality. The grade, quality, and quantity shown on the supplemental certificate shall be as provided in § 1421.339(c).

§ 1421.337 Determination of quality.

The class, grade, grading factors, and all other quality factors shall be based on the Official Grain Standards of the United States for rye, whether or not such determinations are made on the basis of an official inspection. The cost of official grade determinations when made shall not be for the account of CCC.

§ 1421.338 Determination of quantity.

When the quantity is determined by weight, a bushel shall be 56 pounds of rye free of dockage.

(a) *In warehouse.* The quantity of rye on which a warehouse-stored loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net bushels specified on the warehouse receipt or on the supplemental certificate, if applicable. If the rye has been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the receiving weight excluding dockage of 1.2 times the percentage difference between the moisture content of the rye, when received, and 14 percent.

(b) *On farm.* The quantity of rye eligible to be placed under a farm-stored loan shall be determined in accordance with § 1421.17. The quantity acquired by CCC from farm storage under a loan or purchase agreement shall be determined by the weight of the rye at the time of delivery to CCC.

§ 1421.339 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a price support loan or purchase agreement must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and class of rye.

(b) *Entries.* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt must show: (1) Gross weight and net bushels, (2) class, (3) grade (including special grades), (4) test weight, (5) moisture content if above 14 percent, (6) dockage, (7) any other grading factor(s) when such factor(s) and not test weight determine the grade, (8) whether the rye arrived by rail, truck, or barge, (9) the date the rye was received or deposited in the warehouse, and (10) the storage start date.

(c) *Where warehouse receipt shows "Weevily," excess moisture, or both.* If a warehouse receipt tendered as security for a loan indicates that the rye grades "Weevily" or contains over 14 percent moisture, or both, the warehouse receipt must be accompanied by a supplemental certificate as provided in § 1421.336 (b)(3) in order for the rye to be eligible for price support. The grade, grading factors, and quantity to be delivered must be shown on the supplemental certificate as follows:

(1) When the warehouse receipt shows "Weevily" and the rye has been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt.

(2) When the warehouse receipt shows a moisture content of over 14 percent and the rye has been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending the rye to a moisture of not over 14 percent which shall reflect a drying or blending shrink as specified in § 1421.338(a). The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from CCC or any subsequent holder of the warehouse receipt. In the case of conditions specified in subparagraphs (1) and (2) of this paragraph, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* Warehouse receipts and the rye represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "UGSA") may be subject to liens for warehouse charges only to the extent indicated in § 1421.341. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the rye when CCC is holder of the warehouse receipt.

(e) *Freight certificate requirements.* Warehouse receipts representing rye which has been shipped by rail or by barge utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission (ICC), from a country shipping point to a normal trade channel market or to a storage point and stored in transit to a normal trade channel market, must be accompanied by supplemental certificates. These certificates must be representative as to origin and date of movement of the rye and must reflect the rate of freight paid into the storage point and the amount of penalty, if any, for out-of-line haul. The form of the certificates will be prescribed by the Agricultural Stabilization and Conservation Service Kansas City Commodity Office (ASCS–KCCO) and shall be signed by the warehouseman.

§1421.340 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in §1421.11.

§1421.341 Warehouse charges.

(a) *Warehouse charges.* The ASCS-KCCO approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan or purchase price in the case of rye stored in an approved warehouse operated under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. No storage deductions shall be made if written evidence is submitted with the warehouse receipts that (1) storage charges have been prepaid through the loan maturity date, or (2) the producer has arranged with the warehouseman for the payment of storage charges through loan maturity and the warehouseman enters an endorsement in substantially the following form on the warehouse receipt: "Warehouse storage charges accrued or to accrue prior to the acquisition by CCC of the rye represented by this warehouse receipt have been paid or otherwise provided for through the applicable maturity date and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt."

(b) *Storage start date.* The beginning date to be used for computing the storage deduction on rye stored in warehouses operating under the UGSA shall be the later of the following: (1) The date the rye was received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

§1421.342 Availability.

(a) *Loans.* If a producer desires to participate in the price support loan program, such producer must request a loan on or before March 31 of the year following the year the crop is normally harvested.

(b) *Purchases.* If a producer desires to enter into a purchase agreement with CCC by offering eligible rye which is not under loan, such producers must execute and deliver to the county ASCS office on or before March 31 of the year following the year the crop is normally harvested a Purchase Agreement (Form CCC–614) indicating the approximate quantity of rye the producer will sell to CCC.

§1421.343 Maturity of loans and expiration of purchase agreements.

(a) *Loans.* Loan mature on demand but not later than the last day of the ninth calendar month following the month in which the loan was disbursed.

(b) *Purchase Agreements.* Purchase agreements expire on the last day of the ninth calendar month following the month in which the purchase agreement is approved.

§1421.344 Support rates.

Basic county support rates for rye and the schedule of premiums and discounts will be available at the county ASCS office for the applicable crop each year. Farm-stored rye loans will be made at the applicable basic county support rate, adjusted only for the weed control discount where applicable. The support rate for warehouse-stored rye loans and for rye acquired by CCC through the purchase program or rye delivered in settlement of a farm-stored loan shall be the applicable basic support rate adjusted in accordance with the provisions of this section and the premiums and discounts which are available at the county ASCS office for the applicable crop each year on the basis of quality factors on warehouse receipts or supplemental certificates in the case of rye stored in or delivered to an approved warehouse or on such other form as CCC may prescribe in the case of rye delivered to other than an approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of §1421.22. If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

(a) *Basic support rates for farm-stored rye.* The applicable basic support rate for farm-stored loans shall be the basic county support rate established for the county in which the rye is stored.

(b) *Basic support rates for warehouse-stored rye received by rail or utilizing combination barge-rail rates*—(1) *When shipped by rail.* The applicable basic support rate for warehouse-stored loans on rye which was received by rail and stored in an approved warehouse which is in line of normal commercial channels of trade shall be determined by adding to the basic support rate established for the county from which the rye was shipped the following: (i) The amount of freight charges per bushel actually paid in and (ii) an amount equal to the truck receiving and rail loading-out charges in effect for the shipping warehouse. If the rye is destined to a normal trade channel market that would be used in commercial channels of trade but such rye is stored in an approved warehouse resulting in addtional costs because of out-of-line movement, such additional costs shall be deducted from the support rates as otherwise determined in this paragraph.

(2) *When shipped utilizing combination barge-rail rates.* The applicable basis support rate for warehouse-stored loans on rye which is stored in an approved warehouse and which was shipped utilizing combination barge-rail freight rates, published and on file with the ICC, shall be determined by adding to the basic support rate established for the county from which the rye was shipped the following: (i) The amount of freight charges per bushel actually paid in and (ii) an amount equal to the truck receiving and rail loading-out charges computed in accordance with the applicable rates of the UGSA in effect at the time the loan is made. If the rye is destined to a normal trade channel market that would be used in commercial channels of trade but such rye is stored in an approved warehouse resulting in additional costs because of out-of-line movement, such additional costs shall be deducted from the support

rates as otherwise determined in this paragraph.

(c) *Basic support rates for warehouse-stored rye received by truck or nontariff barge.* (1) The basic support rate for rye delivered by truck by the producer to a warehouse at normal delivery point shall be the rate for the county where the rye is stored.

(2) The basic support rate for rye delivered by truck by the producer to an in-line warehouse located 20 miles or more beyond the normal delivery point shall be the support rate for the county from which shipped plus the smaller of the actual freight charge or the following truck freight rate from the farm to the storing warehouse minus the distance from the farm to the producer's normal delivery point.

Map mileage	Allowance
0 to 19	$0.0.
20 to 50	$0.15 per bushel.
51 to 100 add	$0.0016 per bushel per mile.
101 to 125	$0.0008 per bushel per mile.
126 and over	$0.0004 per bushel per mile.

(3) The basic support rate for rye delivered to a warehouse and shipped by truck 20 miles or more to an in-line warehouse shall be the total of: (i) The support rate for the county in which the shipping warehouse is located; (ii) the smaller of the actual freight charge or the amount of the truck freight from the schedule shown in paragraph (c)(2); and (iii) the truck receiving and truck load-out charges for the shipping warehouse.

(4) The basic support rate for rye shipped by barge or truck-barge at a negotiated rate when map mileage from the origin warehouse is 20 miles or more to an in-line warehouse shall be the total of (i) the support rate for the county from where shipped; (ii) the smaller of the actual freight charge or the amount of the truck freight from schedule shown in paragraph (c)(2); and (iii) the origin truck receiving and load-out charge.

(d) *Storing responsibilities.* With respect to rye received by rail or by combination barge-rail, the storing warehouseman shall be responsible for determining the normal trade channel market that would be used in commercial channels of trade. The storing warehouseman shall also execute supplemental certificates showing: (1) The rate of freight paid into the storage point; (2) the amount of penalty, if any, for backhaul or out-of-line movement; (3) the applicable normal trade channel market that would be used in commercial channels of trade; and (4) any other information which may be prescribed by CCC. The warehouseman is responsible to CCC for the accuracy or omissions of information on the supplemental certificate. Warehouseman liability, if any, for the failure to comply with the provisions of this paragraph will be determined in accordance with the provisions of the UGSA after acquisition of the warehouse receipt by CCC.

Signed at Washington, D.C., on August 23, 1982.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-23567 Filed 8-26-82; 8:45 am]

BILLING CODE 3410-05-M

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7 CFR Part 1421

CCC Grain Price Support Regulations Governing the Loan and Purchase Program for 1982 and Subsequent Crops Soybeans

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the regulations governing the price support loan and purchase program for 1982 and subsequent crops of soybeans (1) to delete all references to normal crop acreage and set-aside requirements currently appearing at 7 CFR 1421.366; (2) to incorporate availability and maturity dates; and (3) to remove all references to the annual crop supplements that are no longer being codified.

DATES: This final rule shall become effective August 27, 1982.

ADDRESS: Director, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: H. E. Maynard, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447-8480.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with provisions of Secretary's Memorandum 1512-1 and Executive Order 12291 and has been classified "not major." It has been determined that the provisions of this final rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

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

The purpose of this rule is to amend the regulations governing the loan and purchase program for 1982 and subsequent crops of soybeans to include eligibility requirements, availability dates, and maturity dates for making loans and purchases, to delete references to the annual crop supplements for soybeans that are no longer being codified and to delete certain other references which are no longer applicable to the program.

A separate Regulatory Impact Analysis was not prepared. The effects of this final rule are primarily administrative. Significant impacts to the private sector would be the result of annual program determinations.

There will be modest savings to the Government as the result of decodification.

Since compliance with any set-aside and normal crop acreage requirements may no longer be necessary for price support loan eligibility, references to these requirements have been deleted. The loan availability dates and maturity dates which have previously been published in the **Federal Register** as an annual crop supplement are no longer being codified. Therefore, this continuing regulation is being revised to set forth these dates.

The availability date establishes the period during which the producer may request a price support loan or sign a purchase agreement. The maturity date defines the length of the price support loan and establishes the final date that loans on the commodity mature for that crop year. Since this final rule makes no substantive changes in the regulations but merely deletes certain obsolete

references and generally incorporates and republishes certain existing provisions into a single continuing regulation, it has been determined that no further public rulemaking is required. Accordingly, this rule shall become effective August 27, 1982.

Accordingly, the general regulations governing price support for 1978 and subsequent crops of soybeans as set forth at 7 CFR 1421.365 through 1421.373 and the title of the subpart are amended as stated herein for the 1982 and subsequent crops of soybeans. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable.

List of Subjects in 7 CFR Part 1421

Loan programs—agriculture, Price support programs, Soybeans, Surety bonds, Warehouses.

Final Rule

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Accordingly, 7 CFR Part 1421 is amended by revising the subpart and subpart heading for soybeans as follows:

* * * * *

Subpart—Loan and Purchase Program for 1982 and Subsequent Crops Soybeans

Sec.

1421.365 Purpose.
1421.366 Eligible soybeans.
1421.367 Determination of quality.
1421.368 Determination of quantity.
1421.369 Warehouse receipts.
1421.370 Fees and charges.
1421.371 Warehouse charges.
1421.372 Availability.
1421.373 Maturity of loans and expiration of purchase agreements.
1421.374 Support rates.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 201, 401, 63 Stat. 1052, as amended, 63 Stat. 1051, as amended (7 U.S.C. 1446, 1421).

Subpart—Loan and Purchase Program for 1982 and Subsequent Crops Soybeans

§ 1421.365 Purpose.

This subpart contains program provisions which, together with (a) the General Regulations Governing Price Support for the 1978 and Subsequent Crops, (b) the Cooperative Marketing Associations eligibility requirements for price support as set forth in Part 1425 of this title and (c) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1982 and subsequent crops of soybeans.

§ 1421.366 Eligible soybeans.

(a) *General.* (1). In order to be eligible for a price support loan or purchase agreement, the soybeans must be merchantable for food, feed, or for other uses, as determined by the Commodity Credit Corporation (CCC), and must not contain mercurial compounds, toxin-producing molds, or other substances poisonous to humans or animals.

(2) The soybeans must have been produced by a producer who has complied with the program eligibility requirements prescribed in Parts 713, 718, and 791 of this title and any amendments thereto.

(b) *Warehouse-stored loan grade requirements.* In order to be eligible for a warehouse-stored loan, the soybeans must also meet the following requirements:

(1) The soybeans must grade No. 4 or better.

(2) The soybeans must not grade "Weevily" or have moisture over 14 percent unless the warehouse receipt representing the soybeans are accompanied by a supplemental certificate which provides that the warehouseman shall deliver soybeans which are not "Weevily," does not contain in excess of 14 percent moisture, and is otherwise of an eligible grade and quality. The grade, quality, and quantity shown on the supplemental certificate shall be as provided in § 1421.369(c).

§ 1421.367 Determination of quality.

The class, grade, grading factors, and all other quality factors shall be based on the Official Grain Standards of the United States for Soybeans, whether or not such determinations are made on the basis of an official inspection. The cost of official grade determinations when made shall not be for the account of CCC.

§ 1421.368 Determination of quantity.

When the quantity is determined by weight, a bushel shall be 60 pounds of soybeans free of foreign material in excess of 1 percent. The weight of foreign material in excess of 1 percent shall be deducted from the gross weight in the determination of the net number of bushels of soybeans.

(a) *In warehouse.* The quantity of soybeans on which a warehouse-stored loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net bushels specified on the warehouse receipt or on the supplemental certificate, if applicable. If the soybeans have been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the receiving weight of 1.2 times the percentage difference between the moisture content of the soybeans, when received, and 14 percent.

(b) *On farm.* The quantity of soybeans eligible to be placed under a farm-stored loan shall be determined in accordance with § 1421.17. The quantity acquired by CCC from farm storage under a loan or purchase agreement shall be determined by the weight of the soybeans at the time of delivery to CCC.

§ 1421.369 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a price support loan or purchase agreement must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and class of soybeans.

(b) *Entries.* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt must show: (1) Gross weight and net bushels, (2) class, (3) grade (including special grades), (4) test weight, (5) moisture content if above 14 percent, (6) percentage of foreign material, (7) any other grading factor(s) when such factor(s) and not test weight or moisture determine the grade, (8) whether the soybeans arrived by rail, truck or barge, (9) the date the soybeans were received or deposited in the warehouse, and (10) the storage start date.

(c) *Where warehouse receipt shows "Weevily," excess moisture, or both.* If a warehouse receipt tendered as security for a loan indicates that the soybeans grade "Weevily" or contain over 14 percent moisture, or both, the warehouse receipt must be accompanied by a supplemental certificate as provided in § 1421.366(b)(2) in order for the soybeans to be eligible for price support. The grade, grading factors, and quantity to be delivered must be shown on the supplemental certificate as follows:

(1) When the warehouse receipt shows "Weevily" and the soybeans have been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt.

(2) When the warehouse receipt shows a moisture content of over 14 percent and the soybeans have been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or

blending the soybeans to a moisture of not over 14 percent which shall reflect a drying or blending shrink as specified in § 1421.368(a). The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from CCC or any subsequent holder of the warehouse receipt. In the case of conditions specified in paragraphs (c) (1) and (2) of this section, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* Warehouse receipts and the soybeans represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "USGA") may be subject to liens for warehouse charges only to the extent indicated in § 1421.371. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the soybeans when CCC is holder of the warehouse receipt.

§ 1421.370 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11.

§ 1421.371 Warehouse charges.

(a) *Storage charges.* The Agricultural Stabilization and Conservation Service Kansas City Commodity Office (ASCS–KCCO) approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan rate or purchase price in the case of soybeans stored in an approved warehouse operated under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. No storage deductions shall be made if written evidence is submitted with the warehouse receipts that (1) storage charges through the loan maturity date have been prepaid, or (2) the producer has arranged with the warehouseman for the payment of storage charges through loan maturity and the warehouseman enters an endorsement in substantially the following form on the warehouse receipt: "Warehouse storage charges through the applicable maturity date accrued or to accrue prior to the acquisition by CCC of the soybeans represented by this warehouse receipt have been paid or otherwise provided for through the applicable maturity date and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt."

(b) *Storage start date.* The beginning date to be used for computing the storage deduction on soybeans stored in warehouses operating under the UGSA shall be the later of the following: (1) The date the soybeans were received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

§ 1421.372 Availability.

(a) *Loans.* If a producer desires to participate in the price support loan program, such producer must request a loan on or before May 31 of the year following the year the crop is normally harvested.

(b) *Purchases.* If a producer desires to enter into a purchase agreement with CCC by offering eligible soybeans which are not under loan, such producer must execute and deliver to the county ASCS office on or before May 31 of the year following the year the crop is normally harvested a Purchase Agreement (Form CCC–614) indicating the approximate quantity of soybeans the producer will sell to CCC.

§ 1421.373 Maturity of loans and expiration of purchase agreements.

(a) *Loans.* Loans mature on demand but not later than the last day of the ninth calendar month following the month in which the loan was disbursed.

(b) *Purchase Agreements.* Purchase agreements expire on the last day of the ninth calendar month following the month in which the purchase agreement is approved.

§ 1421.374 Support rates.

Basic county support rates for soybeans and the schedule of premiums and discounts will be available at the county ASCS office for the applicable crop each year. Farm-stored soybean loans will be made at the applicable basic county support rate for the county where stored, adjusted only for the weed control discount where applicable. The support rate for warehouse-stored soybeans acquired by CCC through the purchase program or soybeans delivered in settlement of a farm-stored loan shall be the applicable basic support rate for the county where stored adjusted in accordance with the provisions of this section and the premiums and discounts which are available at the county ASCS office for the applicable crop each year on the basis of quality factors on warehouse receipts or supplemental certificates in the case of soybeans stored in or delivered to an approved warehouse or on such other form as CCC may prescribe in the case of soybeans delivered to other than approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of § 1421.22. If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

Signed at Washington, D.C., on August 20, 1982.

Clarence L. Tardy,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82–23564 Filed 8–26–82; 8:45 am]

BILLING CODE 3410–05–M

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7 CFR Part 1421

Grain Price Support Regulations Governing the Loan and Purchase Program for 1982 and Subsequent Crops of Wheat

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the regulations governing the price support loan and purchase program for 1982 and subsequent crops of wheat (1) to delete all references to normal crop acreage and set-aside requirements currently appearing at 7 CFR 1421.461; (2) to incorporate availability and maturity dates; and (3) to delete all references to the annual crop supplements that are no longer being codified.

DATES: This final rule shall become effective August 27, 1982.

ADDRESS: Director, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: H. E. Maynard, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447–8480.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with provisions of Secretary's Memorandum 1512–1 and Executive Order 12291 and has been classified "not major." It has been determined that the provisions of this final rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual

industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

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

The purpose of this rule is to amend the regulations governing the loan and purchase program for 1982 and subsequent crops of wheat to include eligibility requirements, availability dates, and maturity dates for making loans and purchases, to remove references to the annual crop supplements for wheat that are no longer being codified, and to delete certain other references which are no longer applicable to the program.

A separate Regulatory Impact Analysis was not prepared. The effects of this final rule are primarily administrative. Significant impacts to the private sector would result from annual program determinations. There will be modest savings to the Government as the result of decodification.

Since compliance with set-aside and normal crop acreage requirements may no longer be necessary for price support loan eligibility, references to these requirements have been deleted. The loan availability dates and maturity dates which have previously been published in the **Federal Register** as an annual crop supplement are no longer being codified. Therefore, this continuing regulation is being revised to set forth these dates.

The availability date establishes the period during which the producer may request a price support loan or sign a purchase agreement. The maturity date defines the length of the price support loan and establishes the final date that loans on the commodity mature for that crop year. Since this final rule makes no substantive changes in the regulations but merely deletes certain obsolete references and generally incorporates and republishes certain existing provisions into a single continuing regulation, it has been determined that no further public rulemaking is required. Accordingly, this rule shall become effective upon date of publication in the **Federal Register**. Accordingly, the general regulations governing price support for 1978 and subsequent crops of wheat as set forth at 7 CFR § 1421.460 through § 1421.469 and the title of the subpart are amended as stated herein for the 1982 and subsequent crops of wheat. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Price support programs, Surety bonds, Warehouses.

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Accordingly, 7 CFR Part 1421 is amended by revising the Subpart and Subpart heading for wheat as follows:

* * * * *

Subpart—Loan and Purchase Program for 1982 and Subsequent Crops Wheat

Sec.

1421.460 Purpose.
1421.461 Eligible wheat.
1421.462 Determination of quality.
1421.463 Determination of quantity.
1421.464 Warehouse receipts.
1421.465 Fees and charges.
1421.466 Warehouse charges.
1421.467 Availability.
1421.468 Maturity of loans and expiration of purchase agreements
1421.469 Settlement.
1421.470 Support rates.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105 B, 401, 95 Stat. 1221, 63 Stat. 1051, as amended (7 U.S.C. 1445b-1, 1421).

Subpart—Loan and Purchase Program for 1982 and Subsequent Crops Wheat

§ 1421.460 Purpose.

This subpart contains program provisions which, together with (a) the General Regulations Governing Price Support for the 1978 and Subsequent Crops, (b) the Cooperative Marketing Associations eligibility requirements for price support as set forth in Part 1425 of this title and (c) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1982 and subsequent crops of wheat.

§ 1421.461 Eligible wheat.

(a) *General.* (1) In order to be eligible for a price support loan or purchase agreement, the wheat may be of any class except unclassed wheat, must be merchantable for food, feed, or for other uses, as determined by the Commodity Credit Corporation (CCC); must not contain mercurial compounds, toxin-producing molds, or other substances poisonous to humans or animals; and must not contain two or more rodent pellets or comparable amounts of other excreta per 1,000 grams of wheat or one percent or more by weight of kernels visibly damaged by weevils or other insects.

(2) The wheat must have been produced by a producer who has complied with the program eligibility requirements prescribed in Parts 713, 718, and 791 of this title and any amendments thereto.

(b) *Warehouse-stored loan grade requirements.* In order to be eligible for a warehouse-stored loan, the wheat must also meet the following requirements:

(1) The wheat must grade No. 5 or better, except that the wheat may grade "Sample" on the factors of: (i) Test weight provided that the test weight is not less than 40 pounds per bushel, (ii) damaged kernels (total) with not more than 3 percent heat damage, (iii) foreign material, (iv) total defects with not more than 3 percent heat damage, or (v) any combination of subdivisions (i) through (iv) of this subparagraph.

(2) If of the class Mixed Wheat, the wheat must consist of mixtures of grades of eligible wheat as specified in subparagraph (1) of this paragraph, provided such mixtures are the natural products of the field.

(3) The wheat may have the special grade designations "Garlicky," "Smutty," or both.

(4) The wheat must not grade "Ergoty" or "Treated."

(5) The wheat must not grade "Weevily" or have moisture over 13.5 percent unless the warehouse receipt representing the wheat is accompanied by a supplemental certificate which provides that the warehouseman shall deliver wheat which is not "Weevily," does not contain in excess of 13.5 percent moisture, and is otherwise of an eligible grade or quality. The grade, quality, and quantity shown on the supplemental certificate shall be as provided in § 1421.464(c).

§ 1421.462 Determination of quality.

(a) The class, grade, grading factors, and all other quality factors shall be based on the Official Grain Standards of the

United States for Wheat, whether or not such determinations are made on the basis of an official inspection. The cost of official grade determinations when made shall not be for the account of CCC.

(b) *Protein content determinations.* Producers may obtain official protein content determinations or protein content determinations arrived at by mutual agreement between the producer and the warehouseman with respect to the following: (i) wheat of the classes Hard Red Winter and Hard Red Spring to be placed under warehouse-stored loans or stored in approved warehouses for later purchase by CCC and (ii) wheat delivered from farm storage in satisfaction of a loan or for purchase by CCC. Producers may also obtain official protein determinations on wheat of such classes placed under farm-stored loans in accordance with paragraph (c) of this section. The cost of official protein content determinations shall not be for the account of CCC.

(c) *Protein determinations on farm-stored loan wheat.* If a producer at time of request for a farm-stored loan also requests that the premium for protein content be applied to the basic support rate for the classes of wheat specified in paragraph (b) of this section, the Agricultural Stabilization and Conservation Service will draw a representative sample of, and arrange for protein tests on, the wheat to be placed under loan. The premium applicable to the values determined by such tests shall be applied to the basic support rate at the time the loan is made. However, settlement shall be based on the protein content determined upon delivery of the wheat to CCC. If a producer requests a protein premium on his farm-stored wheat to be placed under loan, a fee for the account of the producer will be charged for each bin of wheat tested for protein content.

§ 1421.463 Determination of quantity.

When the quantity is determined by weight, a bushel shall be 60 pounds of wheat free of dockage.

(a) *In warehouse.* The quantity of wheat on which a warehouse-stored loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net bushels specified on the warehouse receipt or on the supplemental certificate, if applicable. If the wheat has been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the receiving weight excluding dockage of 1.2 times the percentage difference between the moisture content of the wheat, when received, and 13.5 percent.

(b) *On farm.* The quantity of wheat eligible to be placed under a farm-stored loan shall be determined in accordance with § 1421.17. The quantity acquired by CCC from farm storage under a loan or purchase agreement shall be determined by the weight of the wheat at the time of delivery to CCC.

§ 1421.464 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a price support loan or purchase agreement must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and class of wheat.

(b) *Entries.* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt must show: (1) Gross weight and net bushels, (2) subclass, (3) grade (including special grades), (4) test weight, (5) moisture content if above 13.5 percent, (6) dockage, (7) any other grading factor(s) when such factor(s) and not test weight determine the grade, (8) protein content when applicable, (9) whether the wheat arrived by rail, truck, or barge, (10) the date the wheat was received or deposited in the warehouse, and (11) the storage start date.

(c) *Where warehouse receipt shows "Weevily," excess moisture, or both.* If a warehouse receipt tendered as security for a loan indicates that the wheat grades "Weevily" or contains over 13.5 percent moisture, or both, the warehouse receipt must be accompanied by a supplemental certificate as provided in § 1421.461(b)(5) in order for the wheat to be eligible for price support. The grade, grading factors, and quantity to be delivered must be shown on the supplemental certificate as follows:

(1) When the warehouse receipt shows "Weevily" and the wheat has been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt.

(2) When the warehouse receipt shows a moisture content of over 13.5 percent and the wheat has been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending the wheat to a moisture of not over 13.5 percent which shall reflect a drying or blending shrink as specified in § 1421.463(a). The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from CCC or any subsequent holder of the warehouse receipt. In the case of conditions specified in paragraphs (c)(1) and (2) of this section, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* Warehouse receipts and the wheat represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "UGSA") may be subject to liens for warehouse charges only to the extent indicated in § 1421.466. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the wheat when CCC is holder of the warehouse receipt.

(e) *Freight certificate requirements.* Warehouse receipts representing wheat which has been shipped by rail or by barge utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission (ICC), from a country shipping point to a normal trade channel market or to a storage point and stored intransit to a normal trade channel market, must be accompanied by supplemental certificates. These certificates must be representative as to origin and date of movement of the wheat and must reflect the rate of freight paid into the storage point and the amount of penalty, if any, for out-of-line haul. The form of the certificates will be prescribed by the Agricultural Stabilization and Conservation Service Kansas City Commodity Office (ASCS–KCCO) and shall be signed by the warehouseman.

§ 1421.465 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11.

§ 1421.466 Warehouse charges.

(a) *Storage charges.* The ASCS–KCCO approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan rate or purchase price in the case of wheat stored in an approved warehouse operated under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. No storage deductions shall be made if written evidence is submitted with the warehouse receipts that (1) Storage charges have been prepaid through the loan maturity date, or (2) the producer has arranged with the warehouseman for the payment of storage charges

through loan maturity and the warehouseman enters an endorsement in substantially the following form on the warehouse receipt: "Warehouse storage charges accrued or to accrue prior to the acquisition by CCC of the wheat represented by this warehouse receipt have been paid or otherwise provided for through the applicable maturity date and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt."

(b) *Storage start date.* The beginning date to be used for computing the storage deduction on wheat stored in warehouses operating under the UGSA shall be the later of the following: (1) The date the wheat was received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

§ 1421.467 Availability.

(a) *Loans.* If a producer desires to participate in the price support loan program, such producer must request a loan on or before March 31 of the year following the year the crop is normally harvested.

(b) *Purchases.* If a producer desires to enter into a purchase agreement with CCC by offering eligible wheat which is not under loan, such producer must execute and deliver to the county ASCS office on or before March 31 of the year following the year the crop is normally harvested a Purchase Agreement (Form CCC–614) indicating the approximate quantity of wheat the producer will sell to CCC.

§ 1421.468 Maturity of loans and expiration of purchase agreements.

(a) *Loans.* Loans mature on demand but not later than the last day of the ninth calendar month following the month in which the loan was disbursed.

(b) *Purchase Agreements.* Purchase agreements expire on the last day of the ninth calendar month following the month in which the purchase agreement is approved.

§ 1421.469 Settlement.

Notwithstanding the provisions of § 1421.22, if the wheat delivered is of a quality which does not meet the sanitation requirements of § 1421.461(a), the wheat shall be sold for uses other than for human consumption and the settlement value shall be the same as the sale price. However, if CCC is unable to sell the wheat for such other uses, the settlement value shall be market value determined by CCC as of the date of delivery.

§ 1421.470 Support rates.

Basic county support rates for wheat and the schedule of discounts will be available at the county ASCS office for the applicable crop each year. Farm-stored wheat loans will be made at the applicable basic county support rate, adjusted only for the weed control discount where applicable. The support rate for warehouse-stored wheat loans and for wheat acquired by CCC through the purchase program or wheat delivered in settlement of a farm-stored loan shall be the applicable basic support rate adjusted in accordance with the provisions of this section and the premiums and discounts which are available at the county ASCS office for the applicable crop each year on the basis of quality factors on warehouse receipts or supplemental certificates in the case of wheat stored in or delivered to an approved warehouse or on such other form as CCC may prescribe in the case of wheat delivered to other than an approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of § 1421.22. If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

(a) *Basic support rates for farm-stored wheat.* The applicable basic support rates for farm-stored loans shall be the basic county support rate established for the county in which the wheat is stored.

(b) *Basic support rates for warehouse-stored wheat received by rail or utilizing combination barge-rail rates—* (1) *When shipped by rail.* The applicable basic support rates for warehouse-stored loans on wheat which was received by rail and stored in an approved warehouse which is in line of normal commercial channels of trade shall be determined by adding to the basic support rates established for the county from which the wheat was shipped the following: (i) The amount of freight charges per bushel actually paid in and (ii) an amount equal to the truck receiving and rail loading-out charges in effect for the shipping warehouse. If the wheat is destined to a normal trade channel market that would be used in commercial channels of trade but such wheat is stored in an approved warehouse resulting in additional costs because of out-of-line movement, such additional cost shall be deducted from the support rates as otherwise determined in this paragraph.

(2) *When shipped utilizing combination barge-rail rates.* The applicable basic support rate for warehouse-stored loans on wheat which is stored in an approved warehouse and which was shipped utilizing combination barge-rail freight rates, published and on file with the ICC, shall be determined by adding to the basic support rate established for the county from which the wheat was shipped the following: (i) The amount of freight charges per bushel actually paid in and (ii) an amount equal to the truck receiving and rail loading-out charges computed in accordance with the applicable rates of the UGSA in effect at the time the loan is made. If the wheat is destined to a normal trade channel market that would be used in commercial channels of trade but such wheat is stored in an approved warehouse resulting in additional costs because of out-of-line movement, such additional costs shall be deducted from the support rates as otherwise determined in this paragraph.

(c) *Basic support rates for warehouse-stored wheat received by truck or nontariff barge.* (1) The basic support rate for wheat delivered by truck by the producer to a warehouse at normal delivery point shall be the rate for the county where the wheat is stored.

(2) The basic support rate for wheat delivered by truck by the producer to an in-line warehouse located 20 miles or more beyond the normal delivery point shall be the support rate for the county from which shipped plus the smaller of the actual freight charge or the following truck freight rate from the farm to the storing warehouse minus the distance from the farm to the producer's normal delivery point.

Map mileage	Allowance
0 to 19	$0.0.
20 to 50	$0.15 per bushel.
51 to 100 add	$0.0016 per bushel per mile.
101 to 125	$0.0008 per bushel per mile.
126 and over add	$0.0004 per bushel per mile.

(3) The basic support rate for wheat delivered to a warehouse and shipped by truck 20 miles or more to an in-line warehouse shall be the total of: (i) The support rate for the county in which the shipping warehouse is located; (ii) the smaller of the actual freight charge or the amount of the truck freight from the schedule shown in paragraph (c)(2); and (iii) the truck receiving and truck load-out charges for the shipping warehouse.

(4) The basic support rate for wheat shipped by barge or truck-barge at a negotiated rate when map mileage from the origin warehouse is 20 miles or more to an in-line warehouse shall be the total of: (i) The support rate for the county from where shipped; (ii) the smaller of the actual freight charge or the amount of the truck freight from schedule shown in paragraph (c)(2); and (iii) the origin truck receiving and load-out charge.

(d) *Storing responsibilities.* With respect to wheat received by rail or by combination barge-rail, the storing warehouseman shall be responsible for determining the normal trade channel market that would be used in commercial channels of trade. The storing warehouseman shall also execute supplemental certificates showing: (1) The rate of freight paid into the storage point; (2) the amount of penalty, if any, backhaul or out-of-line movement; (3) the applicable normal trade channel market that would be used in commercial channels of trade; and (4) any other information which may be prescribed by CCC. The warehouseman is responsible to CCC for the accuracy or omissions of information on the supplemental certificate. Warehouseman liability, if any, for the failure to comply with the provisions of this paragraph will be determined in accordance with the provisions of the UGSA after acquisition of the warehouse receipt by CCC.

Signed at Washington, D.C., on August 23, 1982.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-23566 Filed 8-26-82; 8:45 am]

BILLING CODE 3410-05-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0419]

Regulation Q; Interest on Deposits; Member Bank Participation in the Secondary Market for Its Own Time Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: The Board of Governors has issued an interpretation of Regulation Q—Interest on Deposits (12 CFR Part 217) concerning arrangements entered into by a member bank to facilitate the secondary market for negotiable time deposits that it has issued as an alternative to its depositors incurring an early withdrawal penalty. Under the interpretation, a member bank may act on behalf of a depositor to find a purchaser of the depositor's negotiable time deposit issued by the member bank. In addition, a member bank may enter into an arrangement whereby an unaffiliated third party stands ready to purchase from depositors negotiable time deposits issued by the bank. However, a member bank may not repurchase its own time deposit or arrange for the sale to its affiliate of a time deposit that the bank has issued. Further, a member bank may not enter into reciprocal arrangements with another depository institution to purchase each other's negotiable time deposits. In addition, a member bank may not pay a fee to a third party for the purchase of its time deposits or provide interim financing to such a party at other than market terms. The Board believes that such transactions constitute devices to avoid the interest penalty required for payment of a time deposit prior to maturity.

EFFECTIVE DATE: August 24, 1982.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Paul S. Pilecki, Senior Attorney (202/452-3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

List of Subjects in 12 CFR Part 217

Advertising; Banks, banking; Federal Reserve System; Foreign banking.

SUPPLEMENTARY INFORMATION: Effective August 24, 1982, pursuant to its authority under section 19(a), 19(i), and 19(j) of the Federal Reserve Act (12 U.S.C. 461(a), 371a, 371b), the Board amends Regulation Q (12 CFR Part 217) by adding a new § 217.159 as follows:

PART 217—INTEREST ON DEPOSITS

§ 217.159 Member bank participation in the secondary market for its own time deposits.

(a) Effective May 1, 1982, the Depository Institutions Deregulation Committee ("DIDC") authorized depository institutions, including member banks, to issue 3½ year or more time deposits not subject to an interest rate ceiling and 91-day, $7,500 time deposits with an interest rate ceiling tied to the most recent 91-day Treasury bill rate. Such deposits may be issued in negotiable form, thereby facilitating the ability of depositors to liquidate the deposit through sales on the secondary market. Member banks have asked the extent to which they may participate in, or facilitate, the secondary market for such time deposits that they have issued.

(b) The Board of Governors believes that a fundamental principle behind the penalty for payment of a time deposit prior to maturity is to distinguish time deposits from demand deposits. Under section 19(i) of the Federal Reserve Act (12 U.S.C. 371a), member banks are prohibited from paying interest on demand deposits. In addition, the early withdrawal penalty is intended to discourage depositors from withdrawing time deposit funds prior to maturity, thereby enabling member banks to better plan their asset and liability structures. The question of participation by a member bank in secondary market transactions involving its own time deposits raises the issue of whether such activity would circumvent the purposes intended to be served by the early withdrawal penalty.

(c) *Direct participation.* (1) The Board has concluded that if a member bank or one of its affiliates purchases a time deposit issued by the bank, the member bank should be regarded as having paid the deposit prior to maturity. The effect of the transaction is that the member bank has cancelled a liability as opposed to having acquired an asset for its portfolio. Thus, the member bank is required to impose the early withdrawal penalty on the party from whom it purchases the instrument. With respect to an affiliate making the purchase, the effect of the penalty rule could be easily circumvented by redemption of the time deposit by the affiliate at the member bank. Even if an early withdrawal penalty is imposed, because of the affiliate relationship, there likely would be no impact on the consolidated earnings of the entity comprising the member bank and the affiliate redeeming the deposit. Consequently, the Board believes that the purchase of a time deposit issued by a member bank by the bank itself or by one of its affiliates constitutes a payment of a deposit prior to maturity.

(2) Many member banks engage in secondary market activities in negotiable time certificates of deposit of $100,000 or more ("CDs"). In many instances, sales and purchases of these CDs are negotiated primarily by rate and maturity and without regard to the specific identity of the issuing bank. In some cases a member bank might purchase a block of CDs of various obligors and later discover one of the CDs purchased to be its own. Since this situation appears to be one in which the member bank has inadvertently purchased its own deposit, the Board believes that the member bank should

not be required to impose an early withdrawal penalty; however, it must sell the CD in the secondary market as soon as possible after it has been received.

(d) *Participation as a "broker."* (1) The Board believes that it is permissible for a member bank to facilitate the secondary market for its own small denomination time deposits by arranging to find a purchaser for a time deposit that a customer is trying to sell. In such instances, the bank will not be paying out any of its own funds and the depositor does not have a guarantee that the member bank will actually be able to find a buyer. Member banks may establish and advertise arrangements whereby an unaffiliated third party agrees in advance to purchase time deposits issued by the bank. Such transactions would not be inconsistent with the purposes that the early withdrawal penalty is intended to serve. However, the Board believes that an arrangement established wherein a member bank pays a fee to a third party that purchases negotiable time deposits from the bank's depositors constitutes a device to avoid the early withdrawal penalty, and, thus, is prohibited. In addition any interim financing provided to such a third party by a member bank in connection with its secondary market activity involving the bank's small denomination time deposits must be made substantially on the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions with other similarly situated persons and may not involve more than the normal risk of repayment or present other unfavorable features.

(2) A member bank may enter into an arrangement with an unaffiliated third party wherein the third party agrees to stand ready to purchase time deposits held by the member bank's customers. However, the Board is of the opinion that a member bank may not establish reciprocal arrangements with another depository institution for purchases of each other's time deposits of less than $100,000 held by customers. The Board believes that arrangements with such parties present serious potential for circumvention of the early withdrawal penalty rule and the purposes that it is designed to serve. In this regard, arrangements entered into with another depository institution to purchase time deposits of the other institution's customers could give rise to significant contingent liabilities for the entities agreeing to purchase the deposits. While the institution issuing the deposit might not be impaired in planning its asset and liability structure, the institution agreeing to purchase deposits from the customers of the issuing institution could be so affected. Such arrangements could have an adverse effect on the safety and soundness of member banks and other depository institutions.

By order of the Board of Governors, August 24, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-23578 Filed 8-26-82; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 217

[Docket No. R-0418]

Deposits as Including Certain Promissory Notes and Other Obligations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended Regulation Q—Interest on Deposits (12 CFR Part 217) to permit member banks to issue automatically renewable repurchase agreements on U.S. government or agency securities ("RPs") of less than $100,000 with maturities of 89 days or less exempt from Federal interest rate ceilings. In addition, member banks will be permitted to issue small denomination RPs with maturities of 90 days or more exempt from interest rate ceilings. This action was taken to maintain the competitive position of member banks *vis-a-vis* other depository institutions.

EFFECTIVE DATE: August 24, 1982.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202-452-3625), or Paul S. Pilecki, Senior Attorney (202-452-3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Effective August 1, 1979, the Board amended Regulation Q—Interest on Deposits (12 CFR Part 217) to subject small denomination repurchase agreements on U.S. government or agency securities ("RPs") of 90 days or more to interest rate ceilings. Under that action, an RP is defined as a deposit if issued in a denomination of less than $100,000 with a maturity of 90 days or more. Small denomination RPs with maturities of less than 90 days are exempt from the interest rate ceilings of Regulation Q unless they can be automatically renewed or extended. The Board continued the exemption from the definition of deposits for small denomination RPs of less than 90 days in order to not affect adversely the practice of small businesses and government units using RPs for cash management purposes. This action was taken in response to the increased use of RPs as a method of avoiding Regulation Q interest rate ceilings for longer-term time deposits. The provision prohibiting automatic renewals or extensions was intended to make effective the 89-day maturity limit to insure that such instruments would not be used as longer-term, small time deposit substitutes.

The Depository Institutions Deregulation Committee has announced recently a schedule to deregulate the interest rate ceilings on small denomination time deposits. Under the initial step of the program, time deposits that mature in 3½ years or longer are not subject to a Federal interest rate ceiling. Thus, there is less incentive for depository institutions to raise longer term funds through the issuance of small denomination RPs. In addition, depository institutions now have a greater variety of deposit instruments with which to compete than were available in 1979. Accordingly, the Board believes that it is no longer necessary to subject small denomination RPs of 90 days or more to interest rate ceilings or to restrict member banks from offering automatically renewable RPs of 89 days or less. Consequently, the Board has amended Regulation Q to exempt from interest rate limitations all member bank RPs on U.S. government and agency securities.

This action is consistent with previous actions taken by other Federal financial institutions regulatory agencies. In this regard, the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation recently authorized Federally-insured savings and loan associations and nonmember Federally-insured commercial banks and mutual savings banks, respectively, to issue automatically renewable small denomination RPs with maturities of less than 89 days exempt from interest rate ceilings.

Because this action is necessary to place member banks in a competitive position similar to other depository institutions with respect to short-term instruments, the Board believes that good cause exists for not adhering to the notice and public participation provisions of 5 U.S.C. 553(b) and for making this action effective immediately.

List of Subjects in 12 CFR Part 217

Advertising; Banks, banking; Federal Reserve System; Foreign banking.

PART 217—INTEREST OF DEPOSITS

Pursuant to its authority under section 19(a) of the Federal Reserve Act (12 U.S.C. 461(a)) to define the term "deposit," the Board amends, effective August 23, 1982, Regulation Q (12 CFR Part 217) by revising § 217.1(f)(2) to read as follows:

§ 217.1 Definitions.

* * * * *

(f) * * *

(2) Evidences an indebtedness arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof that the bank is obligated to repurchase;

* * * * *

By order of the Board of Governors, August 24, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-23579 Filed 8-26-82; 8:45 am]

BILLING CODE 6210-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 16

Commercial Categories for Option Traders; Notification of Availability of a List of Occupation Categories for Determining Commercial Participation in the Commission's Pilot Program for Domestic Exchange Traded Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Rule related notice.

SUMMARY: On November 3, 1981, the Commission published in the **Federal Register** rules to govern a three-year pilot program under which commodity options on certain commodity futures contracts will be permitted to be traded (46 FR 54500 (November 3, 1981)). One purpose of the pilot program is to determine the commercial utility of option contracts based on commodity futures contracts.

In order to provide an adequate basis from which to measure commercial participation in options trading, the Commission requires under Rule 1.37(a) that FCMs and members of contract markets record for each option customer account which they carry an appropriate occupation category from a list of such categories promulgated by the Commission, and a symbol indicating whether the option customer is a commercial or noncommercial, 46 FR 54523 (November 3, 1981).[1] The Commission will obtain data based on this information through reports from contract markets.[2] The Commission has set forth the list of commercial occupations for commodities which the Commission anticipates will be included in the pilot program. From time to time the Commission may supplement this list if options on other commodities are allowed to trade.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, (202) 254-3310.

SUPPLEMENTARY INFORMATION: This list of categories is being distributed to all contract markets and futures commission merchants. Other persons desiring a copy of the list or further information concerning this list should contact Lamont L. Reese, Associate Director, Market Surveillance Section, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Telephone: 202/254-3310.

Issued by the Commission on August 23, 1982.

Jane K. Stuckey,

Secretary of the Commission, Commodity Futures Trading Commission.

[FR Doc. 82-23521 Filed 8-26-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 18

[T. D. 82-158]

Entry of Merchandise Transported In-Bond

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: Upon arrival of imported merchandise transported in-bond at the port of destination, the delivering carrier is required to promptly furnish Customs appropriate documentation as a notice of arrival of the merchandise. Thus, Customs can inspect and appraise the merchandise and collect duty, if applicable.

If there is a shortage of one or more packages or nondelivery of an entire shipment and an inquiry by the carrier discloses that the merchandise has been delivered directly to the consignee, entry may be accepted by Customs if the merchandise is recovered intact without any of the packages having been opened. However, if the merchandise cannot be recovered intact, entry cannot be accepted. As a result of not accepting entry, no trade statistics are collected on the merchandise. Effective administration by Customs of quotas, orderly marketing agreements, and import monitoring may be jeopardized as well as trade data used for international trade negotiations. Accordingly, this document amends the Customs Regulations to authorize acceptance of an entry of the merchandise even though the merchandise cannot be recovered intact.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: William Marchi, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-2957).

SUPPLEMENTARY INFORMATION:

Background

Under sections 552 and 553, Tariff Act of 1930 (19 U.S.C. 1552, 1553), any merchandise, other than explosives and merchandise the importation of which is prohibited, arriving at a port of entry in the United States, may be entered without appraisement or payment of Customs duty for: (1) Transportation in-bond to any other port of entry; or (2) transportation in-bond through the United States for exportation. Either transportation must be made under regulations prescribed by the Secretary of the Treasury, most of which are set forth in Part 18, Customs Regulations (19 CFR Part 18).

Under § 18.2(d), Customs Regulations (19 CFR 18.2(d)), upon arrival of the merchandise at the port of destination, the delivering carrier is required to promptly furnish Customs with the in-bond manifest and other appropriate documentation as a notice of arrival of the merchandise. Thus, Customs can inspect and appraise the merchandise and collect duty, if applicable.

Section 18.6, Customs Regulations (19 CFR 18.6), sets forth the procedures to be used at the port of destination in the event of nondelivery to Customs of an

[1] On June 30, 1982, the Commission proposed amendments to its rules governing options on futures which would broaden the pilot program to include options on physicals. As proposed, Rule 1.37(a) would apply to all option accounts, whether traded for options on futures or physicals. 47 FR 28401 (June 30, 1982).

[2] Commission Rule 16.04 requires that contract markets provide montly reports showing monthend open interest held by commercial and noncommercial traders. 46 FR 54527 (November 3, 1981). In addition, Rule 16.05 requires that, upon call by the Commission, each contract market shall conduct market surveys and provide the business or occupation of options traders from a list of occupational categories promulgated by the Commission. 46 FR 54527 (November 3, 1981).

entire shipment or if there is a shortage of one or more packages in a shipment.

Under § 18.6(b), Customs Regulations, if there is a shortage of one or more packages or nondelivery of an entire shipment and an inquiry by the carrier discloses that the merchandise has been delivered directly to the consignee, entry may be accepted by Customs if the merchandise is recovered intact without any of the packages having been opened.

However, under § 18.6(c), Customs Regulations, if the merchandise cannot be recovered intact, under the circumstances specified in § 18.6(b), entry cannot be accepted. In that event, a demand for liquidated damages under the bond is sent to the initial bonded carrier. As a result of not accepting entry, no trade statistics are collected on the merchandise.

It is believed that the reason for not accepting entry, which has been adhered to since 1936, is that Customs officers could not appraise what they could not see. In addition, it was believed that the penalties assessed against the carrier as liquidated damages under its bond would deter the carrier from violating the regulations. However, Customs has found that the penalties are no longer an adequate deterrent and that vital import statistics are not being collected.

Pub. L. 95–410, the "Customs Procedural Reform and Simplification Act of 1978," made numerous changes in laws administered by Customs relating to the entry of imported merchandise. Section 102 of Pub. L. 95–410 amended 19 U.S.C. 1484(a) by providing that entry shall be made by filing the documentation necessary to enable Customs to determine whether the merchandise may be released from Customs custody. Section 102 also provided that documentation necessary to classify and appraise merchandise and to verify statistical information shall be filed at the time prescribed by regulation. Furthermore, that section provided for the issuance of regulations to ensure the accuracy and timeliness of statistics under the new entry procedures, particularly statistics with regard to the classification and value of imports.

However, under the circumstances set forth in § 18.6(c), if no entry is made, no trade statistics are being collected. Effective administration by Customs of quotas, orderly marketing agreements, and import monitoring may be jeopardized as well as trade data used for international trade negotiations.

Therefore, on January 14, 1982, Customs published a notice in the **Federal Register** (47 FR 2125), which proposed to amend § 18.6(c) to authorize acceptance of an entry of merchandise even though the merchandise cannot be recovered intact. In accordance with § 141.4, Customs Regulations, the entry is required for imported merchandise, unless such entry requirement is specifically exempt by law or regulations. The net effect of the proposal was to require the filing of an entry for merchandise which cannot be recovered intact. A demand for liquidated damages under the bond is still sent to the initial bonded carrier.

Pursuant to the notice, interested parties were given until March 15, 1982, to submit comments on the proposal. Two commenters responded to the notice. Based on the comments received and Customs own review, the amendments are being adopted as proposed except for one technical change.

Discussion of the Comments

Both commenters support the proposal but suggest that it be expanded to include other circumstances when entry is not required. For example, the commenters suggest that an entry should be required when merchandise is delivered by a carrier without a Customs permit to unlade. Although the suggestions have merit, they are beyond the scope of the proposed rule and cannot be adopted at this time.

Additionally, one of the commenters notes the language in the first sentence of the proposed rule, "entry may be accepted," and suggests that it be changed to make acceptance mandatory. Customs agrees. In the "background" portion of the proposed rule, it is stated that the filing of the entry for merchandise which cannot be recovered intact was required. Accordingly, the first sentence of § 18.6(c) is revised by substituting "entry shall be accepted in accordance with § 141.4 of this chapter," in place of "entry may be accepted".

E.O. 12291

The amendments do not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601, et seq.), it is hereby certified that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 18

Customs duties and inspection, Imports, Common carriers.

Amendments to the Regulations

Part 18, Customs Regulations (19 CFR Part 18), is amended as set forth below.

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: August 16, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 18—TRANSPORTATION IN-BOND AND MERCHANDISE IN TRANSIT

Section 18.6(c), Customs Regulations (19 CFR 18.6(c)), is revised to read as follows:

§ 18.6 Short shipments; shortages; entry and allowance.

* * * * *

(c) If the merchandise cannot be recovered intact, as specified above, entry shall be accepted in accordance with § 141.4 of this chapter for the full manifested quantity unless a lesser amount is otherwise permitted in accordance with Subpart A of Part 158. Except as provided in paragraph (d) of this section, there shall be sent to the initial bonded carrier a demand for liquidated damages on Customs Form 5955–A, in the case of nondelivery of an entire shipment or on Customs Form 5931, in the case of a partial shortage.

* * * * *

(R.S. 251, as amended (19 U.S.C. 66), Sections 484, 552, 553, 624, 46 Stat. 722, as amended, 742, as amended, 759 (19 U.S.C. 1484, 1552, 1553, 1624))

[FR Doc. 82–23598 Filed 8–26–82; 8:45 am]

BILLING CODE 4820–02–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

41 CFR Ch. 7

[AIDPR Notice 83-2]

Miscellaneous Revisions to the AID Procurement Regulations

AGENCY: Agency for International Development.

ACTION: Final rule.

SUMMARY: This Agency for International Development procurement regulations (AIDPR) Notice makes miscellaneous changes to the AID Procurement Regulations: To redesignate and reorganize the material now contained in Subpart 7-1.1, Introduction, as Subpart 7-1.0, Regulation System, to conform to the current presentation in the Federal Procurement Regulations; to update all references to "the Assistant Administrator, Bureau for Program and Management Services", or "the Deputy Assistant Administrator, Bureau for Program and Management Services" to reflect the current designation of "the Assistant to the Administrator for Management" and "the Deputy Assistant to the Administrator for Management"; to specifically cross-reference applicable Federal Procurement Regulations and clarify evaluation procedures for noncompetitive selection of an unsolicited proposal; to correct omission of reference to suppliers of commodities in two subparagraphs of AID's nationality rules; to reinstate a cross-reference to FPR Temporary Regulation 55 in AID contract clauses covering "Disputes"; to update information regarding rates for health and accident insurance for AID participant trainees; and to add interim cost principles for bid and proposal costs and independent research and development costs under contracts with nonprofit organizations.

EFFECTIVE DATE: This AIDPR Notice is effective on the date it is signed.

FOR FURTHER INFORMATION CONTACT: Mr. J. M. Kelly, M/SER/CM/SD/POL, Agency for International Development, Washington, D.C. 20523. Telephone (703) 235-9107.

SUPPLEMENTARY INFORMATION: This AIDPR Notice is a procurement regulation, and has been exempted from the requirements of Executive Order 12291 of February 17, 1981, pursuant to Section 8(b) of the Order, by the Director, OMB, in a letter dated April 8, 1981, as amended December 2, 1981. The determination required by paragraph 4a of OFPP Policy Letter 80-5, and the certification required by the Regulatory Flexibility Act have been made and are included in the body of this AIDPR Notice.

List of Subjects in 41 CFR Ch. 7

Government procurement.

1. The Table of Contents for Part 7-1 is revised as follows:

PART 7-1—GENERAL

Subpart 7-1.0—Regulation System

Sec.
7-1.002 Purpose.
7-1.003 Authority.
7-1.004 Applicability.
7-1.006-1 Code arrangement.
7-1.006-2 Publication.
7-1.007-3 Citation.
7-1.008 Agency implementation.
7-1.008-50 Responsibility.
7-1.008-51 AIDPR Notices.
7-1.008-52 Appendices.
7-1.008-53 Implementation within AID procuring activities.
7-1.009 Deviation.
7-1.009-50 Policy.
7-1.009-1 Description.
7-1.009-2 Procedure.

Subpart 7-1.1 [Reserved]

* * * * *

2. A new Subpart 7-1.0 is added as follows:

Subpart 7-1.0—Regulation System

§ 7-1.002 Purpose.

The Agency for International Development Procurement Regulations (AIDPR) supplement the Federal Procurement Regulations (FPR) and implement the procurement related aspects of the Foreign Assistance Act, Executive Order 11223, and established AID policies on procurement as set forth in Supplement B to AID Handbook 1. The AIDPR provides for the codification and publication of procedures for the procurement of services and personal property by AID

§ 7-1.003 Authority.

AIDPR is prepared by the Assistant to the Administrator for Management (AA/M) by direction of the Administrator of AID pursuant to the Foreign Assistant Act of 1961, complies with Federal Procurement Regulations System, and implements and supplements the Federal Procurement Regulations (FPR). See FPR 1-1.0.

§ 7-1.004 Applicability.

(a) Unless a deviation is specifically authorized in accord with AIDPR 7-1.009, or unless otherwise provided, FPR and AIDPR apply to all procurements (regardless of currency of payment) of personal property and nonpersonal services to which AID is a direct party. This regulation does not apply to procurements by other parties, such as borrowers and grantees, which are financed under programs administered in whole or part by AID, nor to contracts entered into jointly by AID and the borrower or grantee to make a procurement from a third source for an overseas program or activity.

(b) At Missions where joint administrative services are arranged, procuring offices may apply the Department of State Procurement regulations (DOSPR)/FPR for all administrative and technical support procurement except in defined areas. The defined areas and administrative guidelines for procurement will be furnished to the overseas Missions by the Office Management Operations. Administrative and local support services include the procurement accountability, maintenance and disposal of all office and residential equipment and furnishings, vehicles and expendable supplies purchased with administrative and/or technical support funds, either dollars or local currency.

§ 7-1.006-1 Code arrangement.

(a) The Federal Procurement Regulations System brings together, in Title 41 of the Code of Federal Regulations, the procurement regulations that apply to all civilian agencies of the Government. FPR is Chapter 1 of Title 41; AIDPR is Chapter 7.

(b) FPR will be divided into 49 parts, and Parts 1 through 49 of AIDPR will expand upon or modify the policies and procedures included in FPR. Material issued in the first 49 parts of AIDPR will be numerically keyed to the corresponding sections of FPR. Part 50 through 99 of AIDPR will be used for procurement policies and procedures for which FPR has no, or is not expected to have, a counterpart.

§ 7-1.006-2 Publication.

Those parts of AIDPR which contain basic and significant policies and procedures considered to be of interest to the general public will be published in the daily issues of the **Federal Register** and, in cumulated form, in the Code of Federal Regulations. Copies of AIDPR in **Federal Register** and Code of Federal Regulations form may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

§ 7-1.007-3 Citation.

Any section of the AIDPR may be identified by "AIDPR" followed by the section number. Since the AIDPR is

published in the **Federal Register**, any section may be incorporated into contracts by reference, using the citation "41 CFR" followed by the section number, as "41 CFR 7–1.007–3."

§ 7–1.008 Agency implementation.

§ 7–1.008–50 Responsibility.

Responsibility for the development and maintenance of AIDPR is assigned to the Assistant to the Administrator for Management (AA/M), and under him, to the Director, Office of Contract Management, or such other office as the AA/M may designate. Amendments and revisions will be prepared in coordination with the General Counsel, and such other offices as may be appropriate.

§ 7–1.008–51 AIDPR Notices.

AIDPR Notices will be used to promulgate changes to the AIDPR. Such Notices will be prepared by the Assistant to the Administrator for Management.

§ 7–1.008–52 Appendices.

Procurement policies and instructions which are essentially informational or procedural may be issued as Appendices to the AIDPR. Appendices are filed behind the main text of the AIDPR in a section entitled "Appendices." The Appendices section contains a table of contents and individual Appendices. The Appendices are identified by letter and subject title (e.g., Appendix A, [title]).

§ 7–3.008–53 Implementation within AID procuring activities.

The heads of the various AID procuring activities may issue operating instructions and procedures consistent with FPR, AIDPR, and other Agency regulations, policies, and procedures for application within their organizations. One copy of each such issuance shall be forwarded to the Director, Office of Contract Management. Insofar as possible, such material will be numerically keyed to the AIDPR.

§ 7–1.009 Deviations.

§ 7–1.009–50 Policy.

It is the policy of AID that deviation from the mandatory requirements of FPR and AIDPR shall be kept at a minimum and be granted only if it is essential to effect necessary procurement and when special and exceptional circumstances make such deviation clearly in the best interest of the Government.

§ 7–1.009–1 Description.

The provisions of FPR 1–1.009–1 defining deviations from FPR shall also apply to the AIDPR. The following actions shall also constitute a deviation from FPR or AIDPR:

(a) When a contract clause is set forth in FPR or AIDPR verbatim, use of a collateral provision which modified either the clause or its prescribed application.

(b) When a contract clause is set forth in FPR or AIDPR but not for use verbatim, use of a contract clause covering the same subject matter which is inconsistent with the intent, principle, and substance of the FPR or AIDPR clause or related coverage of the subject matter.

(c) Omission of any mandatory contract clause.

§ 7–1.009–2 Procedure.

(a) Deviation from FPR or AIDPR affecting one contract or transaction.

(1) Deviations which affect only one contract or procurement will be made only after prior approval by the head of the procuring activity. Deviation requests containing the information listed in paragraph (c) of this section shall be submitted sufficiently in advance of the effective date of such deviation to allow adequate time for consideration and evaluation by the head of the procuring activity.

(2) Requests for such deviations may be initiated by the responsible AID Contracting Officer who shall obtain clearance and approvals as may be required by the head of the procuring activity. Prior to submission of the deviation request to the head of the procuring activity for approval, the Contracting Officer shall obtain written comments from the Office of Contract Management, Support Division. The Support Division shall normally be allowed at least 10 working days prior to the submission of the deviation request to the head of the procuring activity to review the request and to submit comments. If the exigency of the situation requires more immediate action, the requesting office may arrange with the Support Division for a shorter review period. In addition to a copy of the deviation request, the Support Division shall be furnished any background or historical data which will contribute to a more complete understanding of the deviation. The comments of the Support Division shall be made a part of the deviation request file which is forwarded to the head of the procuring activity.

(3) Coordination with the Office of General Counsel, as appropriate, should also be effected prior to approval of a deviation by the head of the procuring activity.

(b) Class deviations from the FPR or AIDPR: Class deviations are those which affect more than one contract or contractor.

(1) Class deviations from the AIDPR will be processed in the same manner as prescribed in paragraph (a) of this section.

(2) Class deviations from the FPR shall be considered jointly by AID and GSA (FPR 1–1.009–2) unless, in the judgment of the head of the procuring activity, after due consideration of the objective of uniformity, circumstances preclude such joint effort. The head of the procuring activity shall certify on the face of the deviation the reason for not obtaining GSA coordination. In such cases, the Office of Contract Management, Support Division, shall be responsible for notifying GSA of the class deviation.

(3) Class deviations from the FPR shall be processed as follows:

(i) The request shall be processed in the same manner as paragraph (a) of this section, except that the Office of Contract Management, Support Division, shall be allowed at least 15 working days prior to the submission of the deviation request to the head of the procuring activity to effect the necessary coordination with GSA and to submit comments. If the exigency of the situation requires more immediate action, the requesting office may arrange with the Support Division for a shorter review and coordination period. The comments of GSA and the Support Division shall be made a part of the procuring activity.

(ii) The request shall be processed in the same manner as paragraph (a) of this section if the request is not being jointly considered by AID and GSA.

(4) Deviations involving basic agreements or other master type contracts are considered to involve more than on contract.

(5) Unless the approval is sooner rescinded, class deviations shall expire 2 years from the date of aproval provided that deviation authority shall continue to apply to contracts or task orders which are active at the time the class deviation expires. Authority to continue the use of such deviation beyond 2 years may be requested in accordance with the procedures prescribed in paragraph (a) of this section.

(6) Expiration dates shall be shown on all class deviations.

(c) Requests for deviation shall contain a complete description of the deviation, the effective date of the deviation, the circumstances in which the deviation will be used, a specific reference to the regulation being deviated from, an indication as to

whether any indentical or similar deviations have been approved in the past, a complete justification of the deviation including any added or decreased cost to the Government, the name of the contractor, and the contract or task order number.

(d) Register of deviations: Separate registers shall be maintained by the procuring activities of the deviations granted from FPR and AIDPR. Each deviation shall be recorded in its appropriate register and shall be assigned a control number as follows: the symbol of the procuring activity, the abbreviation "DEV", the fiscal year, the serial number (issued in consecutive order during each fiscal year) assigned to the particular deviation and the suffix "c" if it is a class deviation, e.g. CM–DEV–73–1, CM–DEV–73–2c. The control number shall be embodied in the document authorizing the deviation and shall be cited in all references to the deviation.

(e) Central record of deviations: Copies of approved deviations shall be furnished promptly to the Office of Contract Management, Support Division, who shall be responsible for maintaining a central record of all deviations that are granted.

(f) Semiannual report of class deviations:

(1) AID Contracting Officers shall submit a semiannual report to the Office of Contract Management, Support Division of all contract actions effected under class deviations to FPR and AIDPR which have been approved pursuant to paragraph (b) of this section.

(2) The report shall contain the applicable deviation control number, the contractor's name, contract number and task order number (if appropriate).

(3) The report shall cover the 6-month periods ending June 30 and December 31, respectively, and shall be submitted within 20 working days after the end of the reporting period.

Subpart 7–1.1—Introduction [Removed and Reserved]

3. Subpart 7–1.1 is removed and reserved.

Subpart 7–1.2—Definition of Terms

§§ 7–1.204 and 7–1.206 [Amended]

4. Sections 7–1.204, Head of the agency, and 7–1.206, Head of the procuring activity, are amended by removing the reference to "* * * the Assistant Administrator for Program and Management Services * * *", in its place inserting "* * * the Assistant to the Administrator for Management * * *".

Subpart 7–1.4—Procurement Responsibility and Authority

§§ 7–1.451–3 and 7–1.451–4 [Amended]

5. Sections 7–1.451–3, AID/Washington procuring activities, and 7–1.451–4, Overseas field procuring activities, are amended by removing the reference to "* * * the Assistant Administrator for Program and Management Services * * *", in its place inserting "* * * the Assistant to the Administrator for Management * * *".

§ 7–1.453–2 [Amended]

6. Section 7–1.453–2, Assistant Administrator for Program and Management Services, is amended to change the subsection title to "Assistant to the Administrator for Management":, and to delete the reference to "* * * the Assistant Administrator for Program and Management Services * * *" in its place inserting "* * * the Assistant to the Administrator for Management * * *".

Subpart 7–1.6—Debarred, Suspended, and Ineligible Bidders

§§ 7–1.604, 7–1.605–3, 7–1.605–5, and 7–1.606 [Amended]

7. Sections 7–1.604, Causes and conditions applicable to determination of debarment by an executive agency; 7–1.605–3, Notice of suspension; 7–1.605–5, Restrictions during period of suspension; and 7–1.606, Agency procedure, are amended by deleting the reference to "* * * the Assistant Administrator for Program and Management Services * * *", in its place inserting "* * * the Assistant to the Administrator for Management * * *".

PART 7–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 7–2.4—Opening Bids and Award of Contract

§§ 7–2.406–3 and 7–2.406–4 [Amended]

8. Sections 7–2.406–3, Other mistakes disclosed before award, and 7–2.406–4, Disclosure of mistakes after award, are amended by removing the reference to "* * * the Assistant Administrator for Program and Management Services * * *", in its place inserting "* * * the Assistant to the Administrator for Management * * *".

PART 7–3—PROCUREMENT BY NEGOTIATION

Subpart 7–3.1—Use of Negotiation

9. Section 7–3.101–50 is amended by revising paragraph (d)(6) as follows:

§ 7–3.101–50 Justification for noncompetitive negotiation.

* * * * *

(d) * * *

(6) Procurements under (b)(6) of this section require the cognizant Assistant Administrator's approval of a favorable comprehensive evaluation prepared by the project officer, in consultation with the Contracting Officer, which (i) discusses the evaluation factors delineated in FPR 1–4.909(d); (ii) concludes that the unsolicited proposal is sufficiently unique to warrant exception from competitive procurement procedures; and (iii) determines that the substance of the unsolicited proposal is not available to AID without restriction from another source. A copy of the Assistant Administrator's approval, together with the favorable comprehensive evaluation, and the project officer's certification required by AIDPR 7–4.910, will be provided to the Contracting Officer for inclusion in the contract file. No further documentation or approval related to noncompetitive procurement is required.

* * * * *

PART 7–6—FOREIGN PURCHASES

Subpart 7–6.51—Source, Origin, and Nationality

10. Section 7–6.5103 is amended by revising paragraphs (d)(1)(i) and (d)(7) as follows:

§ 7–6.5103 Contract clause—source and nationality requirements.

* * * * *

(d) * * *

(1) * * *

(i) An individual who is a citizen or a legal resident of a country or area included in the authorized geographic code;

* * * * *

(7) *Ineligible suppliers.* Citizens of any country or area, and firms and organizations located in or organized under the laws of any country or area, which is not included in Geographic Code 935 are ineligible for financing by AID as suppliers of services or commodities, or as agents acting in connection with the supply of services or commodities, except that non-U.S. citizens lawfully admitted for permanent residence in the United States are eligible regardless of such citizenship.

* * * * *

PART 7-7—CONTRACT CLAUSES

Subpart 7-7.50—Clauses for Cost-Reimbursement Contractors

§ 7-7.5001-26 [Amended]

11. Section 7-7.5001-26, Disputes, is amended by removing the reference to "* * * FPR 1-7.102-12 * * *", in its place inserting "* * * FPR Temporary Regulation 55 * * *".

§ 7-7.5003-9 [Amended]

12. Section 7-7.5003-9, Health and accident coverage for AID participant trainee, is amended by revising the footnote to paragraph (d)(1) as follows:

The rate is $25 per participant month. Information regarding the current rate is available from the AID Office of International Training, or the HAC Administrator named in paragraph (h) of this clause.

Subpart 7-7.53—Contracts for Participant Training

§ 7-7.5301-14 [Amended]

13. Section 7-7.5301-14, Disputes, is amended by removing the reference to "* * * FPR 1-7.102-12 * * *", in its place inserting "* * * FPR Temporary Regulation 55 * * *".

Subpart 7-7.54—Clauses for Fixed-Price Contracts for Technical Services

§ 7-7.5401-12 [Amended]

14. Section 7-7.5401-12, Disputes, is amended by removing the reference to "* * * FPR 1-7.102-12 * * *", in its place inserting "* * * FPR Temporary Regulation 55 * * *".

Subpart 7-7.55—Clauses for Cost-Reimbursement Contracts With Educational Institutions

§ 7-7.5501-20 [Amended]

15. Section 7-7.5501-20, Disputes, is amended by removing the reference to "* * * FPR 1-7.102-12 * * *", in its place inserting "* * * FPR Temporary Regulation 55 * * *".

PART 7-8—TERMINATION OF CONTRACTS

Subpart 7-8.2—General Principles Applicable to the Termination for Convenience and Settlement of Fixed-Price Type and Cost-Reimbursement Type Contracts

§§ 7-8.211-1 and 7-8.211-2 [Amended]

16. Paragraph (b) of both §§ 7-8.211-1, Settlement Review Boards, and 7-8.211-2, Required review and approval, is amended by removing the reference to "* * * the Assistant Administrator for Program and Management Services * * *", in its place inserting "* * * the Assistant to the Administrator for Management * * *".

PART 7-15—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 7-15.6—Contracts With Nonprofit Organizations

17. A new § 7-15.603-2.51 is added as follows:

§ 7-15.603-2.51 Bid and proposal costs.

Pending the establishment of Government-wide principles in Attachment B of OMB Circular A-122, AID will treat bid and proposal costs as follows:

(a) Bid and proposal costs are the costs of preparing bids, proposals, and applications for potential activities such as Government and non-Government grants, contracts and other agreements, including the development of scientific, cost, and other data needed to support such bids, proposals, and applications. Except as provided in (b) below, bid and proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs for allocation to all current activities, and no bid and proposal costs of past accounting periods will be allocable to the current period. However, if the organization's established practice is to treat bid and proposal costs by some other method, the results obtained may be accepted only if found to be reasonable and equitable.

(b) Bid and proposal costs incurred by the organization to obtain unrestricted funds are to be treated as fund raising and allocated an appropriate share of indirect costs under the conditions described in paragraph B.3. of Attachment A to OMB Circular A-122.

18. A new § 7-15.603-2.52 is added as follows:

§ 7-15.603-2.52 Independent research and development costs.

Pending establishment of Government-wide principles in Attachment B of OMB Circular A-122, AID will apply the cost principles at FPR 1-15.205-35 (41 CFR 1-15.205-35) for independent research and development costs.

PART 7-50—EXTRAORDINARY CONTRACTUAL ACTIONS TO PROTECT FOREIGN POLICY INTEREST OF THE UNITED STATES

Subpart 7-50.2—Requests for Contractual Adjustment

§ 7-50.202 [Amended]

19. Paragraph (a) of § 7-50.202 Approving authorities, is amended by removing the reference to "the Deputy Assistant Administrator, Bureau for Program and Management Services * * *", in its place inserting "the Deputy Assistant to the Administrator for Management * * *". Paragraph (b) of § 7-50.202 is amended by deleting the reference to "the Assistant Administrator for Program and Management Services * * *", in its place inserting "the Assistant to the Administrator for Management * * *".

Determination: As required by paragraph 4a of OFPP Policy Letter 80-5, I hereby determine that this AIDPR Notice has been reviewed against the policies set forth in paragraphs (1) through (8) of Section 2 of the Office of Federal Procurement Policy Act (Pub. L. 93-400, as amended by Pub. L. 96-83, hereinafter referred to as the Act), and policy directives issued by OFPP under Section 6(h) of the Act.

Based on this review, I hereby determine that this AIDPR Notice is not inconsistent with the policies set forth in paragraphs (1) through (8) of Section 2 of the Act, and policy directives issued by OFPP under Section 6(h) of the Act.

Certification: Pursuant to the Regulatory Flexibility Act, I hereby certify as head of the Agency, under AIDPR 7-1.204, that this regulation will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small governmental jurisdictions.

(41 CFR 7-1.008.51)

Dated: August 13, 1982.

Paul P. Spishak,

Acting Deputy Assistant to the Administrator for Management.

[FR Doc. 82-23583 Filed 8-26-82; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 302, 303, 304 and 305

Child Support Enforcement Program; Incentive Payments to States and Political Subdivisions

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: This regulation implements Section 307 of Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980. Section 307 provides for the payment of incentives to States which collect and enforce child support obligations on their own behalf. We published a Notice of Proposed Rulemaking (NPRM) on these provisions on May 8, 1981 (46 FR 25660). The comments received on that notice and our responses to the comments are discussed below. In addition, we have made several technical changes to two other regulations in order to make their references conform to this regulation. Finally, the procedures regarding incentive payments have been transferred from the State plan section of our regulations to the section dealing with standards for program operations. As a result of this, a corresponding audit regulation has been deleted.

EFFECTIVE DATE: August 27, 1982.

FOR FURTHER INFORMATION CONTACT: Michael P. Fitzgerald (301) 443–5350.

SUPPLEMENTARY INFORMATION:

Background

Previously, section 458 of the Social Security Act provided for incentive payments equal to 15 percent of amounts received as payment of child support obligations which were enforced and collected under a State's Child Support Enforcement program and retained by the State to reimburse assistance payments under the Aid to Families with Dependent Children (AFDC) program. Under this provision States were entitled to receive incentive payments on collections they made on behalf of another State and political subdivisions were entitled to receive incentives on collections made for their own State or another State, but States were not authorized to receive an incentive payment for collections they made on their own behalf. As a result, several States were not eligible to receive incentives on collections made for their own cases because collection and enforcement of the support obligation were the responsibility of the State Child Support Enforcement (IV–D) agency rather than delegated to a political subdivision.

Statutory Requirement

Section 307 of Pub. L. 96–272, signed by the President on June 17, 1980, amends section 458 of the Act to permit incentives to be paid to States which are collecting and enforcing on their own behalf. OCSE implemented this provision on an interim basis by issuing an Action Transmittal (AT) on August 28, 1980 (OCSE–AT–80–13). The AT is superseded by the final regulation published today. Under the amendment to section 458, States in which the collection and enforcement functions are performed by the State are now eligible to receive incentive payments on collections made on their own "intrastate" cases.

Regulatory Requirements

This regulation provides for incentives to be paid on amounts collected and retained by the State to reimburse assistance payments. States and political subdivisions must still meet the requirements that they enforce and collect child support obligations which have been assigned to the State under 45 CFR 232.11, pursuant to a title IV–D State plan, in order for incentives to be paid on collections made.

Where the Child Support Enforcement program is administered in a fashion such that the State IV–D agency is responsible for both enforcement and collection activities, the State will receive an incentive that it was not previously eligible to receive. This will result in increased amounts of incentive payments for many States. Where the program is State supervised, but administred by political subdivisions, the political subdivision that is collecting and enforcing support obligations continues to be entitled to receive incentive. Where various program activities are carried out by both the State and the political subdivision, the entity to receive the incentive could be controlled by a cooperative agreement, purchase of service agreement or possibly State law. However, the payment of incentives to a State or political subdivison in any one of these situations must be consistent with instructions issued by OCSE. (See the discussion below under the heading "OCSE Instructions" for a listing of ATs which cover the payment of incentives.) In addition, for any one collection of assigned support, only one 15 percent incentive payment may be made.

Time Frames

The proposed regulations at 45 CFR 302.52(d)(2) and (3) (redesignated here as 45 CFR 303.52(d)(2) and (3)) specified time frames within which a collection must be transmitted and the incentive paid in interstate situations. The 10-day time frame in the proposed 45 CFR 302.52(d)(2) which prescribes the amount of time a collecting State or political subdivision has to transmit a collection made on an interstate case is unchanged in this final rule. However, for the reasons discussed below under the heading "Discussion of Comments," we have revised the 60-day time frame in the proposed 45 CFR 302.52(d)(3) which prescribes the amount of time a IV–D agency has to calculate and pay the incentive subsequent to the receipt of an interstate collection. This final regulation gives the IV–D agency 90 days after the end of the month in which the interstate collection was received from the collecting State or political subdivision to calculate and pay the incentive. As proposed in the NPRM, 45 CFR 302.52(d)(4) (redesignated here as 45 CFR 303.52(d)(4)) specifies that the IV–D agency must implement procedures to ensure prompt transmittal of collections and payment of incentives as necessary in intrastate cases.

Payment of Incentives

Up to this point, 45 CFR 302.52 required all incentive payments to be paid by the State IV–D agency. This requirement was not changed in the NPRM. However, based on a recent review of information received from State and local IV–D agencies, we have determined that in many instances incentives have not been paid in a timely manner. This is especially true with respect to the payment of incentives on interstate IV–D collections. Therefore, we have decided to make the provision for paying incentives more flexible by permitting political subdivisions to pay incentives. Thus, the final regulation at both 45 CFR 303.52(a)(1) and 303.52(d)(3) permit the State IV–D agency or, at the option of the State, a political subdivision within the State to pay an incentive to a collecting State or political subdivision when the incentive eligibility requirements are met. Under this requirement, if the State chooses to delegate the paying of incentives to its political subdivisions, it must so indicate in Attachment 1.2A of its IV–D State plan. The State may continue to pay all incentives by the State IV–D agency if it so chooses.

As noted above, these changes were not contained in the NPRM. The Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that if the Department for good cause finds that an NPRM is unnecessary, impractical or contrary to the public interest, it may dispense with the NPRM if it incorporates a brief statement in the final regulations of the reasons for doing so.

The Department finds that there is good cause to dispense with proposed rulemaking with respect to these changes. We find that publication of these changes in proposed form is unnecessary because they are optional with the State, do not affect the delivery of services and provide more administrative flexibility. Accordingly, we believe there is good cause to include them in this final regulation.

Transfer of 45 CFR 302.52 and Deletion of Corresponding Audit Regulation

In addition to the above modifications to the regulations, we are transferring the procedures regarding the payment of incentives from the State plan section of our regulations (45 CFR Part 302) to the section dealing with standards for program operations (45 CFR Part 303). We are doing this as part of an overall strategy to remove plan provisions from the regulations that are not statutory IV-D State plan requirements. Thus, the State plan preprint at Section 2.5, Incentive payments, will be deleted. States will be instructed via AT to officially request removal of this section of the plan from the appropriate OCSE Regional Office. However, the requirement to pay incentives remains a State plan requirement because the State plan section of our regulations at 45 CFR 302.51 continues to require the States under paragraphs (b)(2), (b)(4) and (f)(2) to make incentive payments. The corresponding audit regulation at § 305.28, Distribution of child support payments does not require change to accommodate this fact. In § 302.51, the references to § 302.52 are being changed to § 303.52 via this document to reflect the transfer of the incentive payment procedures.

Since the regulation which contains the procedures for paying incentives is being removed from the State plan section, we are deleting the corresponding audit provision at 45 CFR 305.30, Incentive payments. This change enables us to eliminate a separate compliance review of the procedures for paying incentives while continuing the review of the actual payment of incentives under distribution procedures (§ 305.28). This would relieve States of having to meet an additional separate State plan compliance test which is unnecessary.

The changes discussed in the preceding two paragraphs are being published in final form, although they were not included in the NPRM. The Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that if the Department for good cause finds that an NPRM is unnecessary, impractical or contrary to the public interest, it may dispense with the NPRM if it incorporates a brief statement in the final regulations of the reasons for doing so.

The Department finds that there is good cause to dispense with proposed rulemaking with respect to these changes. We find that publication of these changes in proposed form is unnecessary for the following reasons. The State plan requirement containing procedures for making incentive payments (45 CFR 302.52) is not a statutory IV-D State plan requirement. On the contrary, it was established by OCSE at the inception of the IV-D program to insure that States would implement the requirement to pay incentives in the fashion prescribed by the statute at section 458 of the Act. It was felt that, especially because of the interstate feature inherent in the incentive payment process, States needed to be acutely aware of the prescribed procedures and would more readily adhere to them if they were a part of the State plan. OCSE feels that this need no longer exists since IV-D programs have been in operation for a number of years and States are now familiar enough with the rules to allow us to delete them from the State plan requirements. States should note, however, that the removal of these procedures from the State plan does not alter the requirement to pay incentives since the deleted regulation only contains provisions regarding the *process* of making incentive payments. These procedures are being transferred to a new 45 CFR 303.52 under the Part containing standards for program operations.

The State plan requirement in 45 CFR 302.51(b)(2), (b)(4) and (f)(2) that the IV-D agency deduct and pay incentives is unchanged. The regulations at 45 CFR 305.28 require OCSE to audit the actual payment of incentives as part of its review of the State's procedures for distributing child support payments. OCSE will continue to audit the actual payment of incentives under the distribution procedures at 45 CFR 305.28. The removal of 45 CFR 305.30, Incentive payments, merely eliminates a duplication in the regulations which govern the annual compliance audit conducted by OCSE. The removal of 45 CFR 305.30 is also consistent with the movement of the procedures for making incentive payments to the Part of our regulations which contain the standards for program operations. The removal of the State plan requirement and corresponding audit regulation pertaining to incentive payment procedures does not place any additional requirements on States or affect the delivery of IV-D services to recipients. It serves simply to clarify what is required of the States in making incentive payments and the responsibility of OCSE in auditing this process.

Discussion of Comments

Comments on the NPRM were received from six States and one individual. The commentors supported the proposed changes to the regulation. However, several comments were received regarding provisions of the regulation that have been in existence since the inception of title IV-D. A summary of the substantive comments and our responses follows.

1. *Comment.* One individual commented that incentive payments should not be taken out of child support collections because such practice penalizes children. Rather, the absent parent should be required to pay the incentive payment.

Response. Incentive payments are not taken out of child support collections that are paid to a family. They are only payable with respect to assigned child support (support paid directly to the State) which is paid on behalf of a child receiving AFDC and retained by the State as reimbursement of its costs of providing AFDC for the child. Furthermore, while the incentive payment is calculated on the amount the State retains to reimburse itself, it is paid from what would otherwise be the Federal share of the amount so retained. The financing of an incentive payment, therefore, is totally the responsibility of the Federal government.

2. *Comment.* One State commented that, because the transmittal requirement in the proposed 45 CFR 302.52(d)(2) (redesignated here as 45 CFR 303.52(d)(2)) is contrary to the Uniform Reciprocal Enforcement of Support Act (URESA) laws in many States, the final regulation should permit the responding State or political subdivision of another State to transmit child support collections in accordance with instructions issued by the initiating jurisdiction.

Response. We agree that the requirement in the proposed regulation, that a State or political subdivision must transmit the collection in an interstate case to the IV–D agency where the case originated, may be contrary to the laws and practices in many States. Since this requirement is not mandated by statute, we have decided to specify in this final regulation at 45 CFR 303.52(d)(2) that a State or political subdivision that makes a collection on behalf of another State or political subdivision of another State shall transmit the collection to the location specified by the State or political subdivision where the case originated. This change will permit the State or political subdivision where the case originated to determine where the collecting State or political subdivision must sent the collection and allow the collecting State or political subdivision to transmit the collection accordingly.

3. *Comment.* One State commented that the final regulation should give the State where the case originated 60 days from the date it receives a collection on an interstate case to pay the incentive. This would give the States sufficient time to redetermine eligibility for AFDC, authorize distribution and pay the incentive.

Response. We agree that the requirement in the proposed regulation that the IV–D agency calculate and pay the incentive within 60 days of the end of the month in which the collection was made should be changed since the receiving State cannot control the forwarding of a collection by the collecting State. In addition, we further believe that in many instances the IV–D agency that receives the collection cannot redetermine eligibility for AFDC, authorize distribution and compute and pay the incentive within 60 days of the end of the month in which it receives the collection. Since the statute does not mandate a time frame, we have decided to specify in this final regulation at 45 CFR 303.52(d)(3) that the IV–D agency or political subdivision has 90 days from the end of the month in which the collection is received from another State or political subdivision of another State to calculate and pay the incentive.

Editorial and Technical Changes to 45 CFR Parts 302 and 304

We have made several editorial changes to the regulation on incentive payments in order to improve its clarity. In addition, we have made several technical changes to 45 CFR 302.51 and 304.26 to conform the references contained in those regulations to this final regulation on incentive payments (45 CFR 303.52).

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the changes to the IV–D State plan preprint resulting from this final rule have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0960–0253.

List of Subjects

45 CFR Parts 302 Through 304

Child welfare, Grant programs/social programs.

45 CFR Part 305

Child welfare, Grant programs/social programs, Accounting.

PARTS 302, 303, 304, AND 305 [AMENDED]

Accordingly, 45 CFR Parts 302, 303, 304 and 305 are amended as described below:

1. 45 CFR 302.52 is revised and redesignated as a new 45 CFR 303.52 which reads as follows:

§ 303.52 Incentive payments to States and political subdivisions.

(a) *General provisions.* (1) The State IV–D agency or, at its option, the political subdivisions of the State pursuant to the title IV–D State plan shall make incentive payments to:

(i) Political subdivisions of the State that, under the approved title IV–D State plan, enforce and collect an assigned support obligation on behalf of the State; and

(ii) Other States or political subdivisions of other States that, under an approved title IV–D State plan, enforce and collect an assigned support obligation on behalf of the State.

(2) The State IV–D agency shall make incentive payments to itself when, under the approved title IV–D State plan, the State enforces and collects an assigned support obligation on its own behalf.

(b) *Definitions.* For the purposes of this section:

"Assigned support obligation" means a support obligation assigned to any State under § 232.11 of this title.

"Political subdivision" means a legal entity of the State as defined by the State, including a legal entity of the political subdivision so defined, such as a Prosecuting or District Attorney or a Friend of the Court.

(c) *Amount of incentives.* A State or political subdivision that meets the requirements and conditions in this section is eligible to receive an incentive payment equal to 15 percent of any amount collected and required to be retained to reimburse assistance payments under § 302.51. For any one collection of assigned support, only one 15 percent incentive payment may be made.

(d) *Payment of incentives.* (1) Incentive payments must be paid from amounts which would otherwise be paid to the Federal Government to reimburse its share of assistance payments under § 302.51 of this chapter.

(2) A State or political subdivision that makes a collection on behalf of another State or political subdivision of another State shall transmit the entire amount of the collection to the location specified by the State or political subdivision where the case originated, no later than 10 days after the end of the month in which the collection was made.

(3) Upon receipt of a collection from another State or political subdivision of another State, the State or political subdivision pursuant to the title IV–D State plan shall calculate and pay the incentive, if any, within 90 days of the end of the month in which the collection was received from the collecting State or political subdivision.

(4) The State IV–D agency shall implement procedures to ensure prompt transmittal of collections and incentive payments when a political subdivision makes a collection on behalf of the State or another political subdivision within the same State.

(e) *Use of codes.* (1) The collecting State or political subdivision forwarding a support collection to another State or political subdivision must include, as appropriate, the code identifying the collecting State or political subdivision as:

(i) Defined in the Federal Information Processing Standards Publication (FIPS) issued by the National Bureau of Standards; or

(ii) Defined in the Worldwide Geographical Location Codes issued by the General Services Administration.

(2) The State or political subdivision where the case originated shall use the codes to track the collection and pay incentives.

(f) *Assisting jurisdictions.* The incentive payment described in paragraph (c) of this section must be allocated in accordance with instructions issued by the Office when more than one State or more than one political subdivision participates in activities to enforce and collect support.

2. The table of contents to 45 CFR Parts 302 and 303 are amended as follows:

a. The table of contents to 45 CFR Part 302 is amended by removing the phrase

"302.52 Incentive payments to States and political subdivisions."

b. The table of contents to 45 CFR Part 303 is amended by adding after the phrase "303.20 Minimum organizational and staffing requirements.", the phrase "303.52 Incentive payments to States and political subdivisions."

3. 45 CFR 302.51 and 304.26 are amended as follows:

§ 302.51 [Amended]

a. 45 CFR 302.51 is amended by removing the citation "302.52" where it appears in paragraph (a) and inserting in its place the citation "303.52".

b. 45 CFR 302.51 is amended by removing the phrase "the IV–D agency shall deduct and pay the incentive payment, if any, prescribed in § 302.52." where it appears in paragraphs (b)(2), (b)(4), and (f)(2) and inserting in its place the phrase "the State IV–D agency or political subdivision of the State pursuant to the title IV–D State plan shall deduct and pay the incentive payment, if any, prescribed in § 303.52."

§ 304.26 [Amended]

45 CFR 304.26 is amended by removing the citation "302.52" where it appears in paragraph (b) and inserting in its place the citation "303.52".

4. 45 CFR Part 305 is amended as follows:

The table of contents to 45 CFR Part 305 is amended by removing the phrase "305.30 Incentive payments."

§ 305.20 [Amended]

45 CFR 305.20 is amended by removing the phrase "Incentive Payments. (45 CFR 302.52)" where it appears in paragraph (a).

§ 305.30 [Removed and Reserved]

45 CFR 305.30 is removed and reserved.

Note.—The Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section 1 of the Executive Order. The Secretary certifies that because these regulations apply to States and will not have significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated June 1, 1982.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: July 30, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-23532 Filed 8-26-82; 8:45 am]

BILLING CODE 4190-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 79-252; FCC 82-350]

Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor

AGENCY: Federal Communications Commission.

ACTION: Policy Statement (Second Report and Order).

SUMMARY: The Federal Communications Commission finds that it need not impose traditional Title II (the Communications Act of 1934) regulation upon nondominant common carriers where the costs of such regulation outweigh public interest benefits and frustrate fundamental statutory goals. As a first step, the Commission relieves resellers of basic, terrestrial common carrier services, *i.e.*, those carriers who do not own transmission facilities but rather obtain basic communication services from underlying carriers for resale purposes, of the duty to file tariffs under Section 203 of the Act and the entry and exit regulations under Section 214 of the Act. The Commission finds that imposing the traditional tariffing and certification requirements upon such carriers unduly discourages market entry and inhibits price competition, service innovation, and the ability of these firms to respond quickly to market trends. This action brings regulation of common carriers into closer harmony with statutory purposes and the public interest and fosters greater diversity of service offerings at lower prices.

DATES: Effective August 27, 1982.

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

FOR FURTHER INFORMATION CONTACT: Randall S. Coleman, Tariff Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554 (202–632–6917).

SUPPLEMENTARY INFORMATION:

Second Report and Order

Adopted: July 29, 1982.

Released: August 20, 1982.

I. Introduction

1. This proceeding was initiated to update our regulatory scheme in view of the significant changes in the telecommunications industry since the enactment of the Communications Act in 1934, particularly the emergence of a more competitive marketplace. *Notice of Inquiry and Proposed Rulemaking*, 77 FCC 2d 308 (1979). Thus, in our *First Report and Order*, 85 FCC 2d 1 (1980), *(First Report)*, we classified carriers as either dominant or non-dominant depending on their power to control price in the marketplace and adjusted our rules accordingly.[1] Carriers found to possess market power were classified as dominant. We have continued to regulate them under the existing regulatory scheme in order to ensure that they do not exploit their market power to the detriment of the public. In contrast, those carriers found to lack market power were deemed non-dominant, and the regulatory requirements imposed upon them were streamlined or even eliminated.[2] Under the streamlined rules, their tariff filings are presumed lawful and a petitioner seeking suspension must demonstrate generally that the injury to competition from allowing the tariff proposal to become effective is greater than the harm to the public from depriving it of the service proposed. In addition, these carriers are permitted to file tariffs on 14 days notice (rather than ninety), and are no longer required by our rules to submit extensive economic support data. They also have been granted blanket authority under Section 214 of the Act to extend lines anywhere in the contiguous 48 states, limited only by the requirement that they inform the Commission every six months of these additions. Finally, these non-dominant carriers may discontinue service 30 days after notice to the customer and a showing to the Commission that reasonable substitute service is available.

2. Although the *First Report* took a significant first step toward reducing or removing unnecessary regulatory burdens on non-dominant carriers, we recognized that an even more dynamic

[1] See §§ 61.15(a), 61.38(f), 61.39 and 61.58(f) of the Commission's rules, 47 CFR 61.15(a), 61.38(f), 61.39, 61.58(f).

[2] In the *First Report*, the American Telephone and Telegraph Company (AT&T) and the independent telephone companies together with the domestic satellite carriers (domsats), domsat resellers, the miscellaneous common carriers (MCCs) and the Western Union Telegraph Company (Western Union) were found to come within the definition of dominant carrier. We found the specialized common carriers (SCCs) and resellers of terrestrial services to be non-dominant.

and far-reaching approach was necessary to foster innovation and the efficient development of the telecommunications industry. Thus, we initiated a *Further Notice of Proposed Rulemaking (Further Notice)*, 84 FCC 2d 445 (1981), undertaking a more fundamental inquiry into the congressional purpose underlying the Act and our authority under Title II. Our review of the statutory language and the legislative history, coupled with our analysis of the costs and benefits of detailed rate regulation in light of the statutory intent, led us to tentatively conclude that the Commission was not required to apply traditional Title II regulation to all companies offering basic communication services.[3] Rather, we determined that the comprehensive Title II regulatory scheme was intended to constrain the exercise of substantial market power. When imposed on carriers without such market power, we found its effects counterproductive to the advancement of the Act's express objectives as set forth in Section 1.[4] Thus, we proposed to remove regulatory requirements where their application did not serve the public interest, seeking comment on two alternative approaches for doing so.

3. Under the first approach, we tentatively concluded that, for those communications suppliers with limited market power, or none at all, common carrier status was inappropriate and its attendant Title II obligations should no longer be applicable.[5] Under this "definitional" approach we would impose, or refrain from imposing, common carrier status on communications providers in furtherance of the statutory purposes. The second approach upon which we sought comment was our assertion of discretion to "forbear" applying to entities now regulated as non-dominant common carriers the full panoply of rate, entry/exit and service regulation in instances where we determined that the costs of such regulation outweighed any perceivable benefits. The presence of market power is the primary factor in both the "definitional" and "forbearance" approaches. In the first instance, it is the basis for determining common carrier status of certain communications suppliers. In the latter approach it is the standard used to set apart those common carriers which should be subject to full Title II regulation. We invited commenting parties to identify other relevant criteria which they believed should be applied in making these determinations.

4. The *Further Notice* singled out resellers for special consideration. They appeared to be very strong candidates for deregulation, not only under the definitional and forbearance approaches, but also because of two specific aspects of their activities. We thought that because they did not hold themselves out to serve the public indifferently they might be categorized as private carriers as discussed in the *NARUC I* decision. Alternatively, we thought that the argument for forbearance in the case of resellers was strengthened because of the fact that we regulated the underlying carriers from whom the resellers took service. This made regulation of resellers appear especially duplicative and superfluous.[6]

5. In this order, we affirm our tentative conclusion in the *Further Notice* that this Commission has discretionary authority to forbear applying particular Title II regulations in instances where such forbearance furthers statutory purposes and the public interest. (See discussion *infra* at paragraphs 11–29.)[7] We focus here exclusively on the need for regulation of resellers of basic services,[8] *i.e.*, those carriers who do not own any transmission facilities but rather obtain basic communication services from underlying carriers for resale purposes.[9] We have chosen initially to confine our exercise of forbearance discretion to resellers for several reasons.[10] Since 1976, when we first required carriers to eliminate tariff restrictions on the resale of private line services,[11] this Commission has had few, if any, occasions to reject, suspend, or even investigate tariff filings for resale services. Similarly, we rarely, if ever, have had occasion to deny or condition reseller applications for facilities certification pursuant to Section 214. Thus, there has not appeared to be much public need for regulating resellers. This makes the burdens imposed by our regulation appear especially onerous in the case of resellers. As discussed in greater detail in the *Further Notice* at 453–56, application of Title II regulation to non-dominant firms inhibits entry and innovation in that it takes away their ability to make rapid, efficient responses to changes in demand, costs and other market conditions, causing investors to choose other areas of the economy.

6. A second important basis for our decision to treat resellers separately grows out of our recent decision prescribing unlimited resale of MTS/WATS. *Resale and Shared Use*, 83 FCC 2d 167 (1980) (*MTS/WATS Resale Decision*). We have already received over two hundred applications from entities seeking authority to reoffer these services. We expect many more applications in the future, particularly from the thousands of hotels and motels desiring to resell long-distance telephone services to their guests. In light of our policies in favor of unlimited resale of basic services and the

[3] By "traditional Title II regulation," we meant control over price, publication of terms and conditions of service, control over investments and the obligation to serve all. *See, generally*, Sections 201–203 and 214 of the Act, 47 U.S.C. 201–203 and 214.

[4] 47 U.S.C. 151 provides in pertinent part that this Commission was created "[f]or the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all people of the United States a rapid, efficient, nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges * * *"

[5] The use of market power as a criterion for defining "common carrier" would replace the traditional test for communications common carriage. That test inquires into whether the nature of a particular communication service entails an indiscriminate "holding out" to the public to provide service. NARUG v. FCC, 525 F. 2d 630 (D.C. Cir. 1976), *cert. denied*, 425 U.S. 992 (1976) (*NARUC I*).

[6] In the *First Report*, we found domestic satellite carriers (domsats) and resellers of domsat services to be dominant. Upon further analysis, however, we proposed to find these carriers to be non-dominant. *See Further Notice* at 510–11. Action on that proposal is still pending. In the event we conclude that domsat resellers are non-dominant, we will consider applying the forbearance approach to them. For present purposes, however, we shall not forbear as to domsat resellers.

[7] This order deals only with forbearance. We will leave any discussion about other deregulatory proposals discussed in the *Further Notice* to future orders.

[8] We have already found that enhanced services built on the transmission services obtained from underlying carriers are not common carrier offerings subject to our Title II jurisdiction; thus these activities are not at issue here. See Second Computer Inquiry, 77 FCC 2d 384 (1980) *reconsideration*, 84 FCC 2d 50 (1980) (*Computer II*). We also point out that our order does not affect the regulation of intrastate services by state authorities.

[9] This order does not apply to international services or the provision of MTS and WATS service to Alaska which are currently being considered in separate proceedings. *See* Regulatory Policies Concerning Resale and Shared Use of Common Carrier International Services, 77 FCC 2d 831 (1980); MTS and WATS Market Structure, 73 FCC 2d 222 (1979), *reconsideration in part* 75 FCC 2d 644 (1980). We also point out that this order does not affect Part 68 of our rules which permits direct connection of equipment, conforming to our technical requirements, to the nation-wide telephone network by consumers or interstate tariffs of facilities-owning carriers. All other carriers considered in this proceeding continue to be subject to Title II requirements in accordance with their classification as dominant or non-dominant.

[10] We are still analyzing the appropriateness of forbearance from Title II regulation with respect to other carriers and expect to address those issues in future orders.

[11] Regulatory Policies Concerning Resale and Shared Use of Common Carrier Services and Facilities, 60 FCC 2d 261 (1976), *reconsideration*, 62 FCC 2d 588 (1977), *aff'd sub nom.*, AT&T v. FCC, 572 F. 2d 17 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978) (*Resale Decision*).

apparent growth of the market for such services, we have chosen to consider first the deregulation of resellers. While our effort in this proceeding to eliminate unnecessary Title II regulation is ongoing, we see no need to delay our examination of resellers.

7. Finally, we consider it significant that our tentative proposal to forbear regulating resellers has evoked the least controversy among parties commenting in this proceeding. Indeed, although the comments offer divergent views on the wisdom and propriety of our deregulatory proposals in general, even those ardently opposed to other deregulatrory measures agree that the application of Title II obligations to resale carriers is unnecessary and should be minimized or eliminated.

II. Overview of the Comments

8. Of the almost 50 direct and 30 reply comments filed in response to the *Further Notice,*[12] few commenting parties object to some measure of deregulation of resellers.[13] Rather, what debate there is centers on what degree of deregulation is in the public interest; whether the Commission has the authority under the Act and judicial precedent to implement its deregulatory proposals; and which deregulatory proposal would best achieve the Act's underlying objectives. Several parties address implementation issues, such as procedures for determining when reregulation would be appropriate and whether this Commission is empowered to preclude state regulation of non-dominate carriers.

9. The comments of AT&T are representative of those parties opposed to the tentative conclusions in the *Further Notice.* AT&T agrees in principle with reducing unnecessary regulatory burdens for all carriers. However, it maintains that the deregulatory proposals contained in the *Further Notice* exceed the Commission's discretion under the Act. According to AT&T, Congress intended to regulate all carriers, not only those with market power.[14] Many commenters, however, support our tentative conclusion that, with respect to non-dominant carriers, the Commission may forbear using certain Title II requirements when their use thwarts rather than advances the purposes of the Act.[15] In light of these negative effects, commenters urge that the Commission has not only the latitude, but the responsibility, to apply alternative mechanisms that will, in fact, promote congressional objectives.

10. Of those parties concurring in the Commission's assertion of authority to implement its deregulatory proposals, the majority favored the forbearance appoach.[16] Some maintain that resellers are more accurately classified as private carriers and therefore not subject to any obligations imposed by Title II of the Act.[17] Still others seek only limited Commission relaxation of Title II obligations as to resellers.[18]

III. Discussion

11. In weighing the comments and reaching a final decision with respect to the appropriate regulatory scheme for resellers, we are guided by the mandate and fundamental statutory purpose set out in Section 1 of the Act "* * * to make available * * * to all people of the United States a rapid, efficient Nation-wide and world-wide wire and radio communication service with adequate facilities at reasonable charges * * *." We have analyzed our authority in light of this mandate in the context of the significant technological and regulatory developments in the telecommunications marketplace. Having reviewed the comments on this issue, we conclude that this Commission need not use all Title II regulatory tools for all common carriers. Where their costs outweigh public interest benefits and their indiscriminate application frustrates the fundamental goals of the Act, we find we have authority to forbear applying Title II requirements in the manner described below.

12. In the *Further Native,* we specifically proposed to forbear requiring non-dominant carriers to file tariffs. We observed that traditional tariff regulation of non-dominant carriers is at odds with the purposes of the Act because it inhibits price competition, service innovation and the ability of firms to respond quickly to market trends. We also proposed to forbear from the entry and exit requirements of Section 214. In a competitive environment, we perceived that these entry and exit requirements do little to serve the purposes of the Act and we also found that they actually deterred the introduction of innovative and useful services as well as new market entrants. We find these steps are appropriate and we will implement them here. We also indicated in the *Further Notice,* however, that through forbearance we would relieve non-dominant carriers of their Section 201(a) duty to provide service upon reasonable request. We have reevaluated that tentative determination and believe that application of the forbearance theory to the Section 201(a) duty is unnecessary at this time. We are primarily interested in removing affirmative requirements which require prior Commission approval, namely the filing of tariffs and Section 214 applications. As explained,

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[12] The commenters are listed in Appendix A. In addition, we have motions by AT&T, Hughes Communications, Inc., Timothy J. Flynn, the Hon Foundation and Joseph A. Corrazzi that we accept their late filed comments. Those motions are granted.

[13] Parties specifically favoring the deregulation of resellers under a variety of theories include Aeronautical Radio, Inc. (ARINC), National Telecommunications and Information Administration (NTIA), International Business Machines Corporation (IBM), Computer and Business Equipment Manufacturers Association (CBEMA), United States Telephone and Telegraph Corporation (UST&T), New York State Hotel and Motel Association and the Hotel Association of New York City, Sheraton, Corp., Dow Jones, Inc., Council on Wage and Price Stability, ISA, Communications, Utilities Telecommunications Council (UTC), United Video, Inc. and Gordon and Healy. Other carriers, such as United States Telephone Communications, Inc. (U.S. Tel.), Tel Systems Management Corporation (Tel Systems), and Association of Data Processing Service Organizations, Inc. (ADAPSO), agree in principle with our deregulatory initiatives but favor the retention of limited forms of Title II regulation. AT&T does not specifically address the proposal to deregulate resellers. However, it states in its reply comments that should the Commission decide to deregulate this group of carriers, it would agree with NTIA that AT&T should be allowed to resell basic services on an unregulated basis through a separate subsidiary. Telecator Network of America (Telecator), for its part, is opposed to the notion that resellers would operate as private carriers. The Association of Long Distance Telephone Companies (ALTEL) opposes deregulating resellers separate and apart from other competitive carriers claiming that such a bifurcated plan would create competitive inequities between regulated and non-regulated non-dominate carriers.

[14] Other commenters agree with AT&T's analysis. *See, e.g.,* comments of Alascom Inc. (Alascom) at 9–10, United States Independent Telephone Association (USITA) at 3–4, MCI Telecommunications Corporation (MCI) at 4, 14–16, Southern Pacific Communications Corporation (SPCC) at 13, UTC at 30–38, 56, and Teleprompter Corporation at 39.

[15] *See, e.g.,* comments of Satellite Business Systems (SBS) at 36, CBEMA at 2, American Microwave and Communications Inc. (AMCI) at 2–4, and IBM at 8.

[16] Several carriers favor either deregulatory approach. *See, e.g.,* American Satellite Corporation (AMSAT), Western Union Telegraph Company, RCA American Communications, Inc. (RCA Americom), Garden State Microwave, GTE Satellite Corporation (GSAT), IBM and CBEMA. A few, such as ARINC favor the definitional approach.

[17] *See, e.g.,* comments of IBM, ARINC, CBEMA, ISA Communications and UTC.

[18] *See, e.g.,* comments of ADAPSO (all carriers should provide service at reasonable request); U.S. Tel (extend tariff notice requirements from 14 to 30 days and retain certain entry requirements to weed out those operations which are poorly conceived and financed); Tel Systems (retain tariffing and entry supervision but remove duty to serve); ALTEL, (retain legal rights for interconnection, nondiscrimination, and the complaint process); UST&T (decertification process for new resale market entrants to determine if they have market power); MCI (minimum tariff requirements to ensure nondiscriminatory pricing and equal access, further streamline Section 214, retain Section 201 obligations); and SPCC (streamlined regulations of *First Report* sufficient).

these requirements, in the case of resellers, have proven to be counterproductive and burdensome. In contrast, the duty to serve usually imposes no affirmative filing requirements before the Commission and is generally monitored through the complaint process.[19] Under these circumstances, we will not here forbear applying this statutory obligation.

13. It is our view that the result we reach brings our regulation of common carriers into closer harmony with the statutory purposes. It is now well recognized that "Congress could neither foresee nor easily comprehend the fast-moving developments in the field."[20] Therefore, this agency has been granted "substantial discretion in determining both what and how it can properly regulate", so long as it is exercised in a manner that effectuates rather than frustrates the overriding statutory goals.[21] Equally clear, the breadth of our discretion to regulate is to be measured in terms of the fundamental purposes of the Act.[22] Where, as here, we determine that the mechanical application of particular Title II regulatory tools is clearly at cross-purposes with the Act's express objectives in Section 1 to assure widely available, efficiently produced and reasonably priced service, and imposes costs upon carriers without any offsetting public protection or other benefit, we have the "affirmative duty to ascertain whether [our] regulations still serve[] some aspect of the public interest." *Geller* v. *FCC*, 610 F. 2d 973, 978 n. 39, 980 (D.C. Cir. 1979).[23]

14. As discussed in the *Further Notice*, we have, in the past, declined as a matter of discretion to regulate certain interstate communications facilities and services in some respects where we have determined that such regulation would be unnecessary. For example, prior to our finding in *Computer II*, 77 FCC 2d at 447, that the provision of terminal equipment, even by a common carrier, was not the offering of "communication service" and thus not within the scope of Title II, we had long deferred the exercise of tariff authority over such equipment to the states unless it was necessary to protect the conduct or development of interstate communications.[24] Similarly, we have previously declined to assert Title II tariff filing requirements and active rate regulation over local exchange service when used in connection with foreign exchange (FX) and Common Control Switching Arrangement (CCSA) services,[25] even though the service is jurisdictionally interstate.[26] As a further example of the exercise of our forbearance discretion, we have exempted from Title II rate regulation radio common carriers licensed to provide domestic public land mobile radio service whose service areas extend across state lines, provided they are subject to state or local regulation.[27] Yet, as we observed in the *Further Notice*, such an exemption was not expressly authorized by the Act.

15. Thus, our forbearance from unnecessary and counterproductive regulation is consistent with our previous actions in other common carrier contexts. And implicit in this authority is our ability to adopt a non-traditional regulatory scheme when the imposition of traditional regulation upon these carriers is contrary to the overriding statutory purpose. In this respect, we disagree with commenters who maintain that our streamlined rules are sufficient and further deregulatory measures premature.[28] While the streamlined rules already adopted have advanced the efficient use of telecommunications facilities, the continued imposition of tariff and entry and exit requirements upon carriers without facilities of their own undeniably has the effect of delaying new services and dampening innovation and marketing strategies. In short, the efficient functioning of the marketplace is distorted when competitive carriers are needlessly subjected to rate and entry/exit regulation.

16. Our removal of many tariff restrictions on the resale of communication services, coupled with the low captial requirements necessary to enter into such activity, has resulted in the proliferation of resale operations. In such an environment, where a multitude of substitutable services are actually or potentially available, and many of the resale carriers are simply

[19] In the past, we have had few such complaints filed against resellers. Indeed, it is unlikely that any resellers will unreasonably refuse to provide service. Economic considerations will normally require that these carriers accept reasonable requests for service.

[20] *NARUC I*, 525 F. 2d at 638, n. 37; FCC v. Pottsville Broadcasting, 390 U.S. 134 (1940); NBC v. United States, 314 U.S. 190 (1943) (Congress "gave the Commission not niggardly but expansive powers"); Philadelphia Television Broadcasting Co. v. FCC, 359 F. 2d 282, 284 (D.C. Cir. 1966) (*Philadephia Television*) ("expert agency entrusted with administration of a dynamic industry is entitled to latitude in coping with new developments in that industry"); *Permian Basin Area Rate Case*, 390 U.S. 747, 748 (1968) ("administrative authority must be permitted * * * to adapt their rules and policies to the demands of changing circumstances"). In a more recent case upholding our decision to detariff terminal equipment provided by the international record carriers, the Second Circuit has reiterated this Commission's "broad discretion to choose which regulatory tools to employ." Western Union Telegraph Co. v. FCC, No. 81-4122, slip op. at 6141 (2d Cir. March 12, 1982).

[21] Shapiro v. U.S., 335 U.S. 1, 31 (1948). *Accord*, Lawson v. Suwannee Fruit and Steamship Co., 336 U.S. 198, 201 (1943).

[22] ACLU v. FCC, 523 F. 2d 344 (9th Cir. 1975); United States v. Midwest Video Corp., 406 U.S. 649 (1972); General Telephone Co. of the Southwest v. United States, 449 F. 2d 846 (5th Cir. 1971); *Philadelphia Television*. Several parties reiterate that certain of these cases do not support our assertion of general authority to forbear regulating common carriers under Title II on a theory that they address the narrower issue of our discretion to determine whether or how to regulate cable television, a service not subject to the Commission's Title II jurisdiction. See, *e.g.*, comments of Telocator at 5. However, in the *Further Notice* at 473-74, we considered and rejected so narrow an interpretation. The fact that the Commission's forbearance discretion was considered in the context of the cable industry does not, in our judgment, alter the courts' clear recognition of our general flexibility under the Act to adapt our policies tonew and changing circumstances. Indeed, our broad interpretation is, if anything, supported by judicial approval of our refusal to apply common carrier regulation to cable systems even though the technology clearly had some attributes suggesting that Title II regulation could apply. *Id.* See also *Philadelphia TV; ACLU*. In addition, as we pointed out, the Court's decision in *ACLU* has been construed as "holding that the Commission [has] discretion to refuse to exercise its common carrier regulatory power." *NARUC* v. *FCC*, 533 F. 2d 601, 620 (*NARUC II*). A similar characterization has been made of *Philadelphia TV*, to hold that "a part of the broad discretion allowed the Commission under the Act involves the power not to exercise particular authority which it has been granted." *NARUC II*, 533 F. 2d at 620, n. 113.

[23] In its comments at 29-36, AT&T asserts that a cost-benefit analysis is not a proper legal standard for the Commission to use in deciding whether to regulate certain common carriers. However, the use of such an approach was sanctioned by the Supreme Court in FCC v. WNCN Listeners Guild, 450 U.S. 582 (1981). There, the Court upheld a Commission decision, based on our analysis of costs and benefits, to rely on the marketplace instead of regulatory oversight to promote diversity in entertainment formats. The Court concluded that, in making this judgment the Commission had "not forsaken its obligation to pursue the public interest. On the contrary, [the Commission had] assessed the benefits and the harm likely to flow from government review of entertainment programming, and on balance had concluded that its statutory duties are best fulfilled by not attempting to oversee format changes." *Id.* at 595.

[24] North Carolina Utilities Commission v. FCC, 552 F. 2d 2036, 2050, (4th Cir.), *cert. denied*, 434 U.S. 874 (1977) (*NCUC II*); Diamond International Corp. v. FCC, 627 F. 2d 489 (D.C. Cir. 1980); Department of Defense v. AT&T, 80 FCC 2d 287, 290-91 (1980). *See also*, Pacific Telephone and Telegraph Co., 88 FCC 2d 934, 941 (1981).

[25] American Telephone and Telegraph Co., 56 FCC 2d 14, 21 (1975), *aff'd sub. nom.* California v. FCC, 567 F. 2d 84 (D.C. Cir. 1977).

[26] New York Telephone Co., 76 FCC 2d 349 (1980), *aff'd sub nom.* New York Telephone Co. v. FCC, 631 F. 2d 1059 (2d Cir. 1980). *See also* American Telephone and Telegraph Co. Interconnection With Private Interstate Communications Systems, 71 FCC 2d 1 (1979), where we ordered interconnection of the local network with private line microwave systems but allowed for the application of state rates to the local portions of the services.

[27] FCC Public Notice, FCC 65-805 (September 16, 1965), reissued May 15, 1975.

[28] *See* the Comments of AT&T, MCI, SPCC, and ADAPSO.

arbitrageurs, resellers lack the ability to raise their prices to unreasonable levels or engage in practices proscribed by the Act except at substantial risk of losing customers and profits. The evolution of this competitive activity is convincing evidence that the public interest would be better served by the elimination of traditional forms of rate and entry regulation of resale carriers.

17. In proposing to forbear from fundamental forms of rate and entry regulation, we expressed our intention in the *Further Notice* to rely on competitive market forces to better promote congressional objectives in situations where providers of communication services lacked the ability to exercise market power. Opposing parties maintain that while the Commission has some discretion in implementing the statutory requirements of the Act, we may not substitute the marketplace for specific tariff, service and certification requirements. For example, some commenters maintain that the tariff filing requirements of Section 203 are absolute, and hence, must be applied to all carriers regardless of their market position. However, other than reiterating the same arguments, they present no new persuasive evidence which convinces us that our tentative conclusions in the *Further Notice* were erroneous and should be abandoned.

18. Nor do we agree with ALTEL that a decision to forbear from unnecessary Title II requirements on resale carriers first would create competitive inequities between regulated and non-regulated non-dominant entities. The theory here is that deregulated resellers would have the advantage of "customer" rather than "carrier" status for the purposes of obtaining the tariffed services of regulated carriers. As explained, the forbearance approach that we adopt here would do nothing to alter a reseller's status as a common carrier. *See* note 7, *supra*.

19. ALTEL also predicts that deregulated resellers will face a competitive disadvantage, since there is a marketplace perception that FCC regulation or certification is, in effect, a stamp of approval. In other words, it presumes that non-regulated entities will be considered less worthy or somehow lacking in legitimacy. However, Section 214 certification was never intended as the equivalent of a stamp of approval but rather, as explained in our earlier orders, was a means to ascertain whether the ratepayer should be required to absorb the cost of extending service lines or new investment based on a finding of public convenience and necessity. Notwithstanding ALTEL's protestations, we fully expect our actions to further competition, since deregulated resellers will have greater freedom to satisfy customer needs, for example, through creative contract arrangements.

20. Many of these opposing comments also reflect, to a large extent, a fundamental misunderstanding of the nature and effect of our exercise of forbearance authority.[29] As we have explained, forbearance from the tariff filing requirements with respect to nondominant carriers would not have the effect of abrogating the commands of Sections 201(b) and 202(a) that rates and practices be just and reasonable and not unjustly discriminatory.[30] Rather, our proposal is intended to recognize the competitive evolution of the industry and establish a more efficient, less costly mechanism for ensuring that these statutory requirements are met. We believe that an adjustment to our regulatory processes is necessary to more accurately reflect current marketplace conditions and the circumscribing effect of competitive forces on the rates and practices of non-dominant carriers.

21. We demonstrated in the *Further Notice* that, based on accepted economic principles and our experience in the tariff review process, carriers with little or no market power in a competitive marketplace could not rationally charge rates or engage in practices which contravene the requirements of the Act. We tentatively concluded that the rates of these carriers would fall within a just and reasonable range since they were effectively circumscribed by the costs and rates of dominant carriers which remain subject to close Commission scrutiny. *Further Notice* at 495–96. Moreover, in the case of resellers, it is self-evident that the underlying carrier, from whom the reseller obtains transmission capacity, serves as a necessarily constant competitor in the marketplace. Were a reseller to set its price above the rates of the underlying carrier or competing carriers, its customers would be expected to migrate to these other services. In turn, the underlying carrier's rates are constrained by our full exercise of regulation under Sections 201–205 of the Act. In this way, the regulated carriers' rates act as a "just and reasonable" ceiling on resellers' rates.[31] Thus, we concluded that the competitive forces in the marketplace would serve to ensure, in the first instance, carrier compliance with the obligations imposed by Sections 201(b) and 202(a). *Further Notice* at 495.

22. At the same time, however, we recognized the potential for marketplace failures. To remedy any irrational carrier conduct or aberrations that might occur, we proposed to enforce Sections 201(b) and 202(a) through the complaint process set forth in Section 208.[32] In this way, compliance with congressional policies is secured. In the unlikely event that our forbearance has adverse consequences, the Commission can take such remedial action as may be necessary to protect the public, including the reimposition of the tariff filing requirement.[33] Thus, while we intend to rely on competitive market forces in the first instance to secure carrier compliance with the Act, this use of the complaint process allows for the continued monitoring of the justness and reasonableness of the charges and practices of resale carriers. In this

[29] *See, e.g.*, Teleprompter's comments at 13 ("the agency cannot delegate its duty [to ensure just and reasonable rates] to the marketplace by allowing the market prices to be the *sole* determinant of fairness and reasonableness") (emphasis added) and comments of AT&T at 9 ("[u]nder the *Further Notice's* forbearance deregulation approach, the Commission would *totally* refrain from exercising Title II authority over entities which it determines lack market power"). (Emphasis added.)

[30] Section 201(b) provides in pertinent part that "[a]ll charges, practices, classifications, and regulations for or in connection with . . . communication service, shall be just and reasonable * * *" Section 202(a) makes unlawful any "unjust or unreasonable discrimination in charges, practices, classifications, facilities, or services for or in connection with like communication service * * *."

[31] This sort of indirect regulation has been a regulatory tool upheld by courts for use in other industries. *See*, FPC v. Texaco Inc., 417 U.S. 380, 388-9 (1974); Pan American Airlines v. CAB, 392 F.2d 483, 496 (1968) ("[t]hough there is no express statutory authority for [the CAB's declining to regulate indirect foreign air carriers], we will not upset the agency's interpretation of the statute it administers, particularly where, as here, the relevant United States interests are adequately secured through regulation of the direct foreign air carriers.)"

[32] Section 208, 47 U.S.C. 208, provides that "[a]ny person, any body politic or municipal organization, or state commission" may file with the Commission a petition complaining of any act or ommission in contravention of the Act by any common carrier subject to the Act. Upon such filing, a statement of the complaint is to be forwarded to the carrier who is to satisfy or answer the complaint within a reasonable time. Should the carrier fail to satisfy the complaint or where there "appears to be any reasonable ground" for investigation, the Commission investigates the matter as it deems proper. Complaints may not be dismissed because of a lack of direct damage to the complainant.

[33] *See, New York Telephone Co., supra.* Moreover, under Section 218 of the Act, 47 U.S.C. 218, the Commission may obtain from carriers and from "persons directly or indirectly controlled by, or under direct or indirect common control with, such carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created."

manner the burden of unnecessary regulatory oversight is minimized while consumers remain protected from unreasonable practices, however remote, that could occur.

23. We conclude that reliance on carrier and customer complaints to reveal marketplace distortions is an adequate mechanism to alert us to instances where a more traditional exercise of our Title II authority may be warranted and we retain the power to reimpose certification and tariffing requirements should the need arise. But, we are mindful of the potential for the frivolous or strategic use of the complaint process. If our analysis of the market is correct, valid complaints should be infrequent.[34]

24. The tariff filing requirements of Section 203 are a means for this Commission to ensure the Act's objective of reasonable and not unjustly discriminatory rates and practices. However, Congress did not intend this requirement as the only means of achieving this goal. In the *Further Notice* at 484, we concluded that the statute does not prohibit carrier-to-customer contracts as to rates. We also reasoned that applying the tariff requirements to competitive entities is superfluous, since competition circumscribes the prices and practices of such companies. In addition, these requirements stifle price competition and service and marketing innovation. *Id.* at 479. By not requiring tariffs of resellers, we are not abdicating our duty to ensure rates that are reasonable and not unjustly discriminatory. Competitive market forces, together with our power to intervene in appropriate cases, are sufficient checks on the pricing of resale services. Thus we find that Section 203 need not be applied to resale carriers.

25. As with our belief that the publication of tariffs by resale carriers is unnecessary to ensure the goals of Sections 201(b) and 202(a), we reasoned in the *Further Notice* that forbearance from the certification and discontinuance provisions of Section 214 was consistent with the legislative purpose underlying that section. *Further Notice* at 488–91. Our review of the legislative history revealed that Section 214 was enacted to ensure the provision of nationwide service and to stem inflated rate bases resulting from inprudent or wasteful duplication of facilities. However, we observed that the application of certification and discontinuance procedures to firms without dominance in the marketplace was unnecessary to achieve these purposes. Basic service was ensured by the nation-wide interconnected telecommunications network and only monoply service providers were in a position to pass through the costs of improvident investment decisions to captive ratepayers. As a practical matter, we tentatively concluded that the availability of universal service would be unaffected by the entry and exit of non-dominant carriers and such carriers' incurrence of unnecessary costs could not result in higher rates without an unprofitable loss of customers to alternative, more efficient suppliers. Section 214 entry and exit requirements appeared particularly unwarranted in the case of resellers because they owned no transmission capacity, and underlying basic facilities would be available to the public regardless of the introduction or discontinuance of reseller operations. *Further Notice* at 495.

26. As well as being unnecessary, we concluded that a rigid adherence to Section 214's certification and discontinuance procedures produced results contrary to the Act's underlying policies. We observed that the introduction of useful and innovative services is deterred by the imposition of authorization requirements. Moreover, new entry is discouraged by the presence of discontinuance procedures that may potentially impose increased losses on a carrier after competitive circumstances make a particular service offering uneconomic. On the other hand, we found no concomitant benefit results from such exit requirements since reasonable alternatives are available to protect the public from untoward service disruptions and customers are free to negotiate termination clauses in their service contracts. *Further Notice* at 490. Even though we streamlined Section 214 requirements in the *First Report*, we found that their costs still exceed any public benefits to be derived. Thus, we tentatively concluded that our power to respond to current marketplace conditions consistent with the public interest gave us sufficient discretion to forbear imposing Section 214 requirements upon non-dominant carriers, including resellers.

27. With the exception of those commenting parties who maintain as a general matter that a literal interpretation of the Act binds this Commission to apply Section 214 in all cases, few commenters disagree with our analysis of the purposes, costs and benefits of Section 214 as outlined above. One of the few justifications parties raise for the continued imposition of certification requirements is the Commission's ability to exclude operations which are poorly conceived or financed.[35] In addition, we are urged to continue our role as "gatekeeper" in order to "attach some credibility to new carriers and maintain consumer confidence in the industry." [36]

28. In view of the present competitive industry structure, we believe this Commission need not exercise its certification authority in such a manner as to ensure the financial soundness or credibility of new resale carriers. Rather, we believe that competitive market forces will serve effectively to weed out inferior operations. To repeat, successful market inroads can and should depend, to a large extent, on carrier conduct and performance, not upon the Commission's unintended "stamp of approval." If free from artificial entry constraints, new market entrants will be able to compete through pricing and marketing strategies, service quality, innovation and carrier willingness to respond adequately to individual consumer demands. In turn, the unencumbered introduction of new and varied resale services is likely to result in a broad array of service alternatives significantly benefiting the telecommunications user. In sum, we find that economic regulation in the form of entry and exit controls serves no public policy that will not be better served by competitive market forces.

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[34] Contrary to several parties' assertions, this approach does not suffer the infirmities of the Federal Power Commission's attempt to deregulate small gas producers. FPC v. Texaco, Inc., 417 U.S. 380 (1974). There the Court held that the FPC was without the power to exempt any producer from the just and reasonable standard similar to that of Section 201 of the Communications Act. *Id.* at 394. By effectively permitting rates to be determined in the market, the Court found that the agency had failed to ensure that the just and reasonable standard was met. The Court stated that "the prevailing price in the marketplace [could not] be the *final* measure of 'just and reasonable' rates mandated by the Act." *Id.* at 395–97. (Emphasis added.)

We emphasize that the new approach we adopt here today does not abandon the overriding principles of the Act or exempt resellers from the just and reasonable standard. We intend to ensure that rates are reasonable and practices not unjustly discriminatory through a framework that strikes an appropriate balance between our regulatory oversight and the competitive workings of the marketplace. We do not read the *Texaco* decision as restricting our flexibility to adopt this method of ensuring reasonable rates and practices. As the Court itself explained in FERC v. Pennzoil Producing Co., 439 U.S. 508 (1979): *Texaco* did not purport to circumscribe so severely the Commission's discretion to decide what formulas and methods it will employ to ensure just and reasonable rates. Indeed, the decision underscored the discretion vested in the Commission.

439 U.S. at 516.

[35] *See, e.g.*, Direct Comments of U.S. Telephone Communications at 5; Comments of Tel Systems at 7.

[36] Comments of Tel Systems at 7.

We therefore affirm our conclusion in the *Further Notice* that the removal of entry and exit requirements on resale carriers is in the public interest, and moreover, warranted by current circumstances.

IV. Conclusion

29. In sum, we believe we have sufficient discretion and flexibility under the Act to apply our Title II powers in a manner that continues to further statutory objectives. We affirm our tentative conclusion in the *Further Notice* that the uncritical application of our traditional regulatory tools inhibits the competitive development of resale operations and results in unnecessary burdens inevitably borne by the consuming public. Based on our informed judgment and the extensive record developed in this proceeding, we believe that the elimination of unnecessary regulation of resellers will serve to benefit the telecommunications user substantially. Services will not only be offered in greater diversity but will be made available more rapidly at lower prices. At the same time, communications facilities will be more effectively utilized, providing consumers with efficient and customized alternatives.

V. Implementation

30. In accordance with these conclusions, resale carriers as defined in this order no longer need adhere to the entry and exit requirements of Section 214 or the tariff filing requirements of Section 203.[37] These carriers shall be given blanket special permission to cancel their tariff pages. Pursuant to § 1.8 of our Rules, 47 CFR 1.8, certificates of authority pursuant to Section 214 which have been granted to resale carriers shall remain in the Commission's records. Resale carrier applications for such authority which are currently pending shall be retained but not processed unless the Commission is notified by the applicant of its intent to become a facilities based carrier. In such cases, the reactivated application need only be supplemented to the extent information has changed. Of course, should a resale carrier which currently owns no transmission facilities (*i.e.*, a pure reseller) subsequently seek to become a facilities based carrier, it will be subject to the streamlined rules applicable to non-dominant carriers as set out in the *First Report*.

VI. Ordering Clauses

31. Accordingly, it is ordered, pursuant to Sections 4 (i) and (j), 201–205, and 403, of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j), 201–205 and 403 and Section 553 of the Administrative Procedure Act, 5 U.S.C. 553, That the policies set forth herein are adopted.

32. It is further ordered, That resale carriers as defined in this order are given permission to cancel their tariffs on file with this Commission. Cancellation shall be by supplement effective upon five day's notice and the supplement shall reference this order as authority for cancellation. For this purpose, §§ 61.58, 61.59 and 61.116 of the Rules, 47 CFR 61.58, 61.59 and 61.116, are waived.

33. It is further ordered, That the motions to accept late comments filed by American Telephone and Telegraph Company Hughes Communications, Inc., Timothy J. Flynn, the Hon Foundation and Joseph A. Corrazzi are granted.

34. It is further ordered, That the Secretary shall cause this Second Report and Order to be published in the **Federal Register.**

35. It is further ordered, That the policies adopted herein shall become effective upon publication in the **Federal Register.**[38]

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Parties Filing Comments on Further Notice in Docket No. 79–252

1. ABC, CBS, and NBC (the Networks)
2. Aeronautical Radio, Inc. (ARINC)
3. Alarm Industry Telecommunications Committee of the National Burglar & Fire Alarm Association (reserved the right to file reply comments)
4. Alascom, Inc. (Alascom)
5. American Microwave and Communications, Inc. (AMCI)
6. American Satellite Company (Amsat)
7. American Telephone and Telegraph Company (AT&T)
8. Association of American Railroads (Railroad Association)
9. Association of Data Processing Service Organizations, Inc. (ADAPSO)
10. Association of Long Distance Telephone Companies (ALTEL) (reply only)
11. Black Entertainment Network (BET)
12. Central Committee on Telecommunications of the American Petroleum Institute (API)
13. Central Telephone and Utilities Corporation (Centel)
14. Computer and Business Equipment Manufacturers Association (CBEMA)
15. Concerned Broadcasters Using Intercity Video Transmission Facilities (CONVID)
16. Council on Wage and Price Stability (COWPS)
17. Dow Jones and Company, Inc. (Dow Jones)
18. Eastern Microwave, Inc. (EMI)
19. Flynn, J. Timothy, The Hon Foundation and Joseph A. Corrazzi (Flynn)
20. Garden State Micro Relay, Inc. (Garden State)
21. Garryowen Corporation (Garrryowen)
22. Gordon & Healy
23. GTE Satellite Corporation (GSAT) (reply only)
24. Home Box Office, Inc. (HBO) (reply only)
25. Hughes Communications, Inc. (Hughes) (reply only)
26. Hughes Television Network (HTN)
27. Independent Data Communications Manufacturer's Association, Inc. (IDCMA) (reply only)
28. International Business Machines Corporation (IBM)
29. ISA Communications Services, Inc. (ISACOMM)
30. MCI Telecommunications Corporation (MCI)
31. Mobile Marine Radio, Inc. (MMR)
32. National Association of Business and Educational Radio, Inc. (NABER)
33. National Association of Regulatory Utility Commissioners (NARUC)
34. National Cable Television Association, Inc. (NCTA)
35. National Telecommunications and Information Administration (NTIA)
36. New York State Hotel & Motel Association, Inc. and Hotel Association of New York City, Inc. (Hotel Associations)
37. The People of the State of California and the Public Utilities Commission of the State of California (California)
38. Post-Newsweek Stations, Inc. (Post-Newsweek)
39. Public Broadcasting Service (PBS)
40. RCA Americom Communications, Inc. (RCA Americom)
41. RCA Global Communications, Inc. (RCA Globcom)
42. Satellite Business Systems (SBS)
43. The Sheraton Corporation (Sheraton)
44. Southern Pacific Communications Company (SPCC)
45. Southern Satellite Systems, Inc. (Southern Satellite)
46. Tel Systems Management Corporation (TSM)
47. Teleprompter Corporation (Teleprompter)
48. Telocator Network of America (Telocator)
49. UA-Columbia Cablevision, Inc. (UA-Columbia)
50. U.S. Telephone and Telegraph Corporation (UST&T)

[37] However, we will not at this time forbear imposing these obligations on any entity established by dominant carriers to resell basic services. Because these carriers have been found to have market power in the provision of interstate telecommunications services, their reselling of such services through a separate subsidiary raises unique and complex issues which we have not yet resolved.

[38] The Commission finds that because these policies relieve restrictions on competition and public benefits will be derived from putting them into effect without delay, an immediate effective date is in the public interest. See 5 U.S.C. 553(d).

51. U.S. Telephone Communications, Inc. (U.S. Tel)
52. United States Independent Telephone Association (USITA)
53. United Video, Inc. (United Video)
54. Utilities Telecommunications Council (UTC)
55. Viacom International, Inc. and Showtime Entertainment (Viacom)
56. Warner Amex Satellite Entertainment Company (Warner Amex)
57. Western Communiations Research Institute, Inc. and the National Citizens Committee for Broadcasting (WCRI) (reply only)
58. Western Telecommunications, Inc. (WTCI) (reply only)
59. Western Union International, Inc. (WUI)
60. Western Union Telegraph Company (Western Union)
61. WJG Telephone Company (WJG)
62. Robert Wold, Inc. (Wold)

Concurring Statement of Commissioner Joseph R. Fogarty

In Re: Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor ["Competitive Carrier Rulemaking"], CC Docket No. 79-252, Second Report and Order—Deregulation of Resale Carriers.

I concur in this decision to forbear from full Title II regulation of resale carriers on the ground that resellers do not own any transmission facilities but rather obtain basic communications services for resale purposes from underlying carriers whose rates remain subject to Commission regulatory scrutiny under Title II. Under these circumstances, the rates charged by resellers are effectively constrained by the costs and rates of the underlying carriers and thus may be rationally recognized as *prima facie* "just and reasonable." The "reasonableness" of other reseller practices, including questions of the availability of their services on demand and customer discrimination, remains subject to Commission review pursuant to the section 208 complaint process. With these safeguards, I believe the Commission can fully and fairly warrant that its fundamental Section 1 mandate to ensure "adequate facilities at reasonable charges * * * available, so far as possible, to all* * *" will be served by forbearance from full Title II regulation of resale carriers.*

*I am particularly pleased that the Commission's decision adopts and applies the forbearance analysis, rather than the so-called "definitional" theory, as the legal basis for this action. This chosen legal framework ensures that the Commission will retain the full flexibility and discretion to impose full Title II regulation in the resale market if unanticipated effects inimical to the public interest should occur. *See* Competitive Carrier Rulemaking—Further Notice, Separate Statement of Commissioner Joseph R. Fogarty, Concurring in Part; Dissenting in Part, 84 FCC 2d 537–40 (1981). I strongly believe that this choice enhances the integrity and credibility of this "deregulatory" decision.

It bears emphasizing that this decision, and my concurrence therein, does not address or resolve the larger issues remaining in this proceeding concerning the Title II status and regulation of underlying carriers in general or of domestic satellite carriers and the resellers of their facilities and services in particular. These issues remain for another day.

[FR Doc. 82-23557 Filed 8-26-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 68

[CC Docket No. 19528]

Proposals for New or Revised Classes of Interstate and Foreign Message Toll Service (MTS) and Wide Area Telephone Service (WATS); Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The FCC is correcting a rule that was published on April 19, 1978 (43 FR 16480) pertaining to proposals for new or revised classes of interstate and foreign Message Toll Service (MTS) and Wide Area Telephone Service (WATS). This action is necessary for grammatical clarification.

FOR FURTHER INFORMATION CONTACT: William H. von Alven, Common Carrier Bureau, (202) 634-1833.

SUPPLEMENTARY INFORMATION:

Erratum

Released: August 16, 1982.

In the matter of proposals for new or revised classes of interstate and foreign message toll telephone service (MTS) and wide area telephone service (WATS), CC Docket No. 19528.

1. The following correction is made concerning the Third Report and Order, CC Docket No. 19528, released April 13, 1978, FCC 78-248, 43 FR 16480 (published 4-19-78).

2. In § 68.215(g)(3) introductory text, the last sentence is corrected to read, "To minimize disruption of the premises communications system, the right of inspecting is limited as follows:"

3. The purpose of this correction is for grammatical clarification.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-23572 Filed 8-26-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-241; RM-4082]

FM Broadcast Station in Breckenridge, Minnesota; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes Class C FM Channel 286 for Channel 285A at Breckenridge, Minnesota, and modifies the Class A license accordingly, in response to a petition filed by Ingstad Broadcasting Inc.

DATE: Effective October 19, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Breckenridge, Minnesota); BC Docket No. 82-241, RM-4082, Report and Order (Proceeding Terminated).

Adopted: August 11, 1982.

Released: August 18, 1982.

By the Chief, Policy and Rules Division:

1. In response to a petition filed by Ingstad Broadcasting, Inc. ("petitioner"),[1] the Commission adopted a Notice of Proposed Rule Making, 47 FR 20160, published May 11, 1982, proposing to substitute Class C Channel 286 for Channel 285A at Breckenridge, Minnesota.[2] The Notice also proposed to modify the Class A license for Station KKWB(FM) to specify operation on Channel 286. Comments supporting the proposal were filed by Tri State Broadcasting Company (KDIO), Ortonville, Minnesota, and by the petitioner. The petitioner also submitted reply comments.[3]

[1] Petitioner is the licensee of Station KKWB(FM), Breckenridge, Minnesota.

[2] The Notice stated that action on this proposal would be contingent on the outcome of BC Docket 81-737, which proposed the assignment of Channel 287 to Ortonville, Minnesota. In a Report and Order, released May 26, 1982, FCC Mimeo No. 31475, the Commission assigned Channel 268 to that community.

[3] Petitioner's response merely points out to the Commission that the only comments filed in this proceeding were those by KDIO, which addressed the impact of this proceeding on another rule making.

2. In comments, the petitioner restated the information in the Notice which demonstrated the need to upgrade its Class A facility to a Class C operation. KDIO in comments refers to BC Docket 81-737 which proposed to assign Channel 268 to Ortonville, Minnesota. Accordingly to KDIO the white area to be served by that proposal will also be served by the Breckenridge proposal.

3. After consideration of the proposal and comments, we believe that the public interest would be served by the proposed substitution of channels. We have authorized in paragraph 6 a modification of petitioner's license for Station KKWB(FM) to specify operation on Channel 286, since there has been no other expression of interest in the Class C channel.

4. Canadian concurrence has been obtained in the substitution of Channel 286 for Channel 285A at Breckenridge, Minnesota.

5. In view of the foregoing and pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules, it is ordered, That effective October 19, 1982, § 73.202(b) of the Commission's Rules is amended with respect to the following community:

City	Channel No.
Breckenridge, Minnesota	286

6. It is further ordered, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Ingstad Broadcasting, Inc. for Station KKWB(FM), Breckenridge, Minnesota, is modified, effective October 19, 1982, to specify operation of Channel 286 instead of Channel 285A. Station KKWB(FM) may continue to operate on Channel 285A for one year from the effective date of this action or until it is ready to operate on Channel 286, whichever is earlier, unless the Commission sooner directs, subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-23515 Filed 8-26-82; 8:45 am]

BILLING CODE 6712-01

47 CFR Part 73

[BC Docket No. 21513; RM-2882]

FM Broadcast Station in Freeport, San Marcos, and Sinton, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action makes the following substitutions: FM Channel 277 for Channel 273 at Freeport, Texas; Channel 278 for Channel 279 at San Marcos, Texas; and Channel 279 for Channel 277 at Sinton, Texas. Additionally, the licenses of Stations KEYI, San Marcos, and KOUL, Sinton, are modified to specify operation on the newly assigned channels. These actions were taken in response to a petition filed by Amaturo Group, Inc., licensee of Station KMJQ, Channel 271, Houston, Texas. The actions will permit Station KMJQ to relocate its transmitter.

DATE: Effective October 19, 1982.

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

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Freeport, San Marcos,[1] and Sinton, [1] Texas); Docket No. 21513, RM-2882; Second Report and Order (Proceeding Terminated).

Adopted: August 11, 1982.

Released: August 19, 1982.

By the Chief, Policy and Rules Division:

1. Before the Commission is the Further Notice of Proposed Rule Making and Orders to Show Cause, 46 FR 56833, published November 19, 1981, which proposes FM channel substitutions at Freeport, San Marcos, and Sinton, Texas. These substitutions also require a modification of license for the San Marcos and Sinton stations operating on the affected channels.

2. This proceeding arose in the following way. By Report and Order, 45 FR 21638 (1980), the Commission assigned Channel 273 to Freeport, Texas, as that community's first FM assignment. Although the assignment presently meets all Commission spacing requirements, the channel is short-spaced to the location at which Amaturo Group, Inc. ("AGI") plans to move the transmitter for Station KMJQ (Channel 271), Houston, Texas. AGI states that because of high-rise construction immediately adjacent to its existing antenna in downtown Houston, KMJQ and other co-located FM stations in the Houston area have been forced to seek alternative transmitter sites. AGI states that one suitable location has been found approximately 15 miles southwest of Houston, where a tower of sufficient height can be constructed which will enable all affected FM stations to serve the Houston listening area. AGI contends that due to FAA height restrictions, other possible locations would not permit provision of adequate service to Houston. In the Report and Order, the Commission stated that its policy favors a first assignment to a community (Freeport) over a site preference for the relocation of an existing station (Houston Station KMJQ). AGI filed a petition for reconsideration of the Report and Order alleging that its proposed relocation site was not a "preference" but a necessity. In response to AGI's petition for reconsideration, the Commission issued a Request for Supplemental Information.[2] AGI was therein given the burden of establishing that its existing transmitter was unusable for purposes of serving its city of license, and that alternative sites, which would not cause short-spacing to the Freeport assignment, were unavailable.

3. Before the Commission had taken any final action on AGI's petition for reconsideration, AGI filed an alternative proposal to substitute Channel 277 for Channel 273 at Freeport, which would remove the short-spacing with Station KMJQ. The channel substitution at Freeport also required channel changes at San Marcos and Sinton. AGI cited several benefits to justify its channel substitution scheme. First, Station KMJQ

[1] These communities have been added to the caption.

[2] 46 FR 27169, published April 21, 1981.

could relocate to a site southwest of Houston with no short-spacing to Freeport or any other community. Second, Freeport could have a Class C assignment with no shortspacing to any other community. Third, the area of site selection for the Freeport station would be greatly increased. Finally, the channel substitutions would have no adverse preclusive impact, and would in fact decrease the present preclusion in some areas. AGI also stated that it would reimburse the stations operating at San Marcos and Sinton for the expenses incurred in changing their operating frequencies. Believing that the proposals of AGI would serve the public interest, we issued the Further Notice. However, we clearly stated that the adoption of the Further Notice obviated the need, at least for the present, to analyze the facts surrounding Station KMJQ's proposed transmitter relocation. We stated that should the proposals not be adopted, it might be necessary to return to the relocation controversy for a final resolution of this proceeding. We also noted that, as potential beneficiaries of the assignment plan, any applicant for the Freeport assignment would be expected to share the reimbursement costs for Stations KOUL and KEYI.

4. The following parties submitted comments in response to the Further Notice: AGI; Weymar, Inc., the original proponent of the Freeport assignment; Freeport Broadcasting Company ("FBC"), an applicant for Channel 273 at Freeport; KNOW Radio, Inc., licensee of Station KEYI, San Marcos ("KEYI"); and Broadcasting Corporation of the Southwest, licensee of Station KOUL, Sinton ("KOUL"). KOUL simultaneously filed a "Request for Hearing on Proposed Modification of License." Reply comments were filed by AGI, FBC, and KOUL. On July 20, 1982, a supplemental pleading was filed by KOUL.

5. In its comments, AGI supports the proposals for the same reasons expressed in its petition for rule making. AGI avers that the channel changes will result in the prompt resolution of the "serious problems" facing Station KMJQ in Houston and also enhance the viability of the Freeport assignment. Weymar states in its comments that it first proposed the Freeport assignment in February, 1977. Weymar thus supports any reasonable proposal which will permit this proceeding to be brought to a conclusion. Weymar also indicates that it is willing to share the reimbursement costs for Stations KOUL and KEYI, should it become the ultimate licensee in Freeport. In this regard, Weymar suggests that AGI be required to reimburse the stations initially and then seek partial recoupment from the party eventually chosen as the Freeport licensee.

6. FBC, an applicant for Channel 273 at Freeport, states that it has no objection "in principal" to the substitution of Channel 277 for Channel 273 at Freeport. FBC opines that the proposed actions, proposed for the sole benefit of AGI, will further delay the initiation of service at Freeport. With respect to the reimbursement issue, FBC concludes that the ultimate Freeport licensee should not be required to share in the reimbursement and that, indeed, AGI should be required to reimburse FBC for the cost of reengineering its application for the Freeport channel if the proposed substitution is made.

7. KEYI states that it has no objection to the modification of its license to specify operation on Channel 278 instead of Channel 277 at San Marcos, provided that it is reimbursed for its expenses in making the channel change. KEYI further requests that its entire reimbursement come from AGI, rather than waiting for half its reimbursement from the ultimate Freeport licensee. When a Freeport licensee is chosen, that party could then pay its share of the expenses to AGI. KEYI concludes that to make it wait for half of its reimbursement would place an improper financial burden on a party not benefitted by this rule making.

8. KOUL, operating on Channel 277 at Sinton, Texas, initially opposed the Commission's proposal and requested a hearing on the proposed modification of its license. However, in its supplemental pleading of July 20, 1982, KOUL requests that its previous opposition to the channel substitution and license modification be withdrawn. KOUL states that it now consents to a modification of its license from Channel 277 to Channel 279. KOUL appended to its comments a copy of the reimbursement agreement reached between KOUL and AGI.[3]

9. After carefully considering the comments filed in response to the Further Notice, we conclude that the public interest would be best served by the adoption of the proposed channel substitutions. The plan furthers several important public interest considerations. First, our decision strongly reaffirms the importance of providing Freeport with its first FM assignment. Second, the substitution of Channel 277 for 273 at Freeport considerably expands the available transmitter locations for Freeport applicants.[4] Third, the channel substitutions decrease the preclusive impact of the assignments; this could open up some areas for further allocation.[5] Finally, the assignment plan permits AGI to move its transmitter to the common tower site along with several other Houston-area FM licensees. Although the common tower site is possibly not the only site in the Houston area to which affected stations might relocate, we have previously recognized that it may indeed be the optimal available site.[6] Adopting this proposal permits AGI to utilize this site and thereby maximize its service to its audience, and it eliminates the short-spacing problem with the Freeport assignment.

10. As previously noted, the assignment of Channel 277 at Freeport requires the substitution of Channel 278 for Channel 279 at San Marcos, Texas; the substitution of Channel 279 for Channel 277 at Sinton, Texas; and modification of the licenses of the stations currently operating in San Marcos and Sinton. KNOW Radio, Inc., the licensee of Station KEYI at San Marcos, does not object to the channel substitution and related license modification so long as it is reimbursed for the expenses incurred in the changes. KOUL likewise consents to the channel substitutions and has already negotiated a reimbursement agreement with AGI. Thus, the San Marcos and Sinton substitutions do not represent an impediment to the adoption of this proposal, and we shall make the assignments and license modifications as proposed.

11. In the Further Notice we stated that, because applicants for the Freeport assignment would benefit from the proposed changes, the ultimate Freeport licensee should share in the reimbursement costs incurred by Stations KOUL and KEYI in changing their operating frequencies. FBC, an applicant for the Freeport channel, objected to this decision on the basis that it had already applied for Channel 273 at a site meeting all the spacing requirements; thus, no benefit accrued to FBC by reason of the channel changes.

[3] The reply comments of AGI, FBC, and KOUL primarily addressed KOUL's initial opposition to the channel sustitution scheme. Because KOUL has now consented, those reply comments are moot.

[4] We realize that FBC has already applied for Channel 273 at a location which fully meets the spacing requirements for that channel. FBC will be free to remain at its present location or seek a more advantageous transmitter site.

[5] Since the adoption of the Second Report and Order in BC Docket No. 80-130, 47 FR 26624, published June 21, 1982, considerations of preclusion are no longer relevant in FM assignment decisions.

[6] *See Lockhart, Texas,* 50 R.R. 2d 1081, 1085 (1981).

FBC therefore questioned our rationale for making the Freeport licensee share in the reimbursement. On further reflection, we agree with FBC. Channel 273 at Freeport presently meets the Commission's spacing requirements, and FBC has found a suitable site from which to operate. The channel changes made herein directly benefit AGI by allowing it to relocate its transmitter to the common tower site southwest of Houston. As the principal beneficiary of the channel changes, we believe AGI should bear the full costs of the Sinton and San Marcos substitutions. Indeed, in its petition for rule making, AGI agreed to provide full reimbursement. Therefore, we shall not require the ultimate permittee at Freeport to provide partial reimbursement to the Sinton and San Marcos licensees.[7]

12. Finally, as stated in the *Further Notice*, Channel 271, on which AGI presently operates Station KMJQ, was initially assigned to Alvin, Texas, and used by AGI at Clear Lake City under Section 73.203(b) of the Commission's Rules. Because Clear Lake City was recently annexed by the City of Houston, AGI requests that we reassign Channel 271 from Alvin, Texas, to Houston, Texas, to reflect its actual use there. We shall also make that requested reassignment.

13. Accordingly, it is ordered, That, effective October 19, 1982, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules is amended for the communities listed as follows:

City	Channel No.
Alvin, Texas	
Freeport, Texas	277
Houston, Texas	229, 233, 239, 243, 250, 256, 262, 266, 271, 275, 281, 289
San Marcos, Texas	278
Sinton, Texas	267, 279

14. It is further ordered, pursuant to the authority contained in Section 316 of the Communications Act of 1934, as amended, that the licenses of Stations KEYI, San Marcos, Texas, and KOUL, Sinton, Texas, are modified, to specify operation on Channels 278 and 279, respectively, subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

15. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules.

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

17. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-23516 Filed 8-26-82; 8:45 am]

BILLING CODE 6712-01-M

[7] FBC also requests reimbursement from AGI for the expenses necessary to amend its application for the Freeport channel. Given the modest expense necessary to carry out such an amendment, and the fact that the Commission has never ordered such reimbursement in similar cases, we shall deny FBC's request. FBC will be permitted to amend its application to specify Channel 277 at Freeport.

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47 CFR Part 73

[BC Docket No. 82-170; RM-3995]

FM Broadcast Station in Rock Springs, Wyoming; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a third Class C FM channel to Rock Springs, Wyoming, in response to a petition filed by KAYS, Inc.

DATE: Effective October 14, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Rock Springs, Wyoming); BC Docket No. 82-170, RM-3995, Report and Order, (Proceeding Terminated).

Adopted: August 11, 1982.

Released: August 18, 1982.

By the Chief, Policy and Rules Division:

1. The Commission herein considers the notice of proposed rule making, 47 FR 16653, published April 19, 1982, proposing the assignment of Class C Channel 236 to Rock Springs, Wyoming, as its third FM channel. The Notice was issued in response to a petition filed by KAYS, Inc. ("petitioner"). Supporting comments were filed by the petitioner and by KVWO, Inc.[1], both stating their intention to apply for the channel, if assigned. Comments in opposition to the proposal were filed by Media West, Inc.[2] to which the petitioner responded.

2. Media's opposition to the proposal focused on population guidelines and the lack of need for an additional allocation to Rock Springs. Media acknowledged the then pending rule making (BC Docket 80-130) which would possibly eliminate these issues, but argued that since the guidelines were in effect, the Commission should apply them with flexibility. Media points out that the cases cited in the Notice are unlike the Rock Springs proposal, inasmuch as a proven need existed for those assignments.[3] Finally, Media urges the Commission to deny, or in the alternative hold in abeyance, the proposal for an additional allocation to Rock Springs.

3. As pointed out by the petitioner, the Commission recently adopted a Second Report and Order, 47 FR 26624, published June 21, 1982, revising the FM assignment policies. In accordance with that action, the issues raised by Media are no longer a consideration in a nonconflicting FM proceeding.

4. In accordance with that decision, the Commission believes that the public interest would be served by assigning Channel 236 to Rock Springs, Wyoming, since it would provide that community with an opportunity for its third local FM broadcast service.

5. Accordingly, pursuant to the authority contained in sections. 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules, it is ordered, That effective October 19, 1982, the FM Table of Assignments (§ 73.202(b) of the Rules) is amended with respect to the community listed below:

[1] KVWO, Inc. is the licensee of Stations KUUY(AM) and KKAZ(FM), Cheyenne, Wyoming.

[2] Media West, Inc. is the licensee of Stations KRKK(AM) and KQSW(FM) Rock Springs, Wyoming. Media notes that it has entered into an agreement for the sale of its stations.

[3] Citing, North Platte, Nebraska, 44 FR 21636 (1979) and Wausau, Wisconsin, 49 R.R. 2d 1113 (1981).

City	Channel No.
Rock Springs, Wyoming	236, 243, 283

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

7. For further information concerning the above, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-23517 Filed 8-26-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-220; RM-3969]

Radio Broadcast Services; TV Broadcast Station in Green Valley, Arizona Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 46 to Green Valley, Arizona, as its first television broadcast service in response to a petition filed by Stephen L. Coppock, d.b.a. Skyline Communications Group.

DATE: Effective October 19, 1982.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: August 11, 1982.

Released: August 18, 1982.

In the matter of an amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Green Valley, Arizona); BC Docket No. 82–220, RM–3969; report and order (proceeding terminated).

1. The Commission has before it for consideration a *Notice of Proposed Rule Making*, 47 Fed. Reg. 18934, published May 3, 1982, in response to a petition filed by Stephen L. Coppock d.b.a. Skyline Communications Group ("petitioner"), proposing the assignment of UHF television Channel 46 to Green Valley, Arizona, as the community's first local television service. Supporting comments were filed by petitioner reaffirming its intent to apply for the channel, if assigned. No oppositions to the *Notice* were received.

2. Green Valley is in Pima County, approximately 37 kilometers (23 miles) south of Tucson and within 320 kilometers (200 miles) of the U.S.-Mexico border. Although the community of Green Valley is not listed in the 1980 Census, Advance Report, petitioner states that is has a population of 13,500. Pima County has a population of 531,263. In its supporting comments to the proposal, petitioner incorporated by reference the information contained in the *Notice*, which indicated substantial gains in the Green Valley population and a need for independent programming. We are told that Green Valley presently receives television programming from the communities of Tucson and Nogales, Arizona.

3. We believe that the public interest would be served by assigning UHF television Channel 46 to Green Valley, Arizona. Petitioner has adequately demonstrated the need for a first television allocation to that community and the assignment can be made in compliance with the minimum distance separation requirements of the rules and other technical criteria. Mexican concurrence has been obtained in the proposed assignment.

4. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules, it is ordered, that effective October 18, 1982, the Television Table of Assignments, § 73.606(b) of the Rules, is amended with respect to the community listed below:

City	Channel No.
Green Valley, Ariz	46

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

6. For further information concerning this proceeding, contact D. David Weston, Broadcast Bureau, (202) 632–7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-23614 Filed 8-26-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-235; RM-4071]

Radio Broadcast Services; TV Broadcast Station in Mountain Home, Arkansas Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 43 to Mountain Home, Arkansas, as its first television assignment in response to a petition filed by Baxter Broadcasting, Inc.

DATE: Effective October 19, 1982.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: August 11, 1982.

Released: August 18, 1982.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Mountain Home, Arkansas); BC Docket No. 82–235, RM–4071; report and order (proceeding terminated).

1. The Commission has before it for consideration a *Notice of Proposed Rule Making*, 47 FR 20156, published May 11, 1982, in response to a petition filed by Baxter Broadcasting, Inc. ("petitioner") proposing the assignment of UHF television Channel 43 to Mountain Home, Arkansas, as the community's first television assignment. Supporting comments were filed by petitioner reaffirming its intent to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Mountain Home, a community of 7,447,[1] is the seat of Baxter County which has a population of 27,409, and is located approximately 180 kilometers (110 miles) north of Little Rock, Arkansas, in the Ozark Mountains. Mountain Home has no local television service. We are told that service is received from two Springfield, Missouri, television stations. Petitioner states, however, that because of terrain shielding in the mountainous region, the more than 90,000 area residents rarely receive the signals from the distant stations. Petitioner states that Mountain Home is the economic and commercial

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

center for this area and has submitted economic, demographic and population data which demonstrate a need for a first commercial television assignment to the community.

3. We believe that the public interest would be served by the assignment of UHF television Channel 43 to Mountain Home in order to provide that community with its first local television service. The channel can be assigned in compliance with the minimum distance separation requirements and other technical criteria.

4. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules, it is ordered, that effective October 19, 1982, the Television Table of Assignments (§ 73.606(b) of the Rules) is amended with respect to the community listed below:

City	Channel No.
Mountain Home, Ark.	43+

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

6. For further information concerning this proceeding, contact D. David Weston, Broadcast Bureau, (202) 632–7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–23615 Filed 8–26–82; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 82–252; RM–4068]

Radio Broadcast Services; TV Broadcast Station in Carroll, Iowa; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 30 to Carroll, Iowa, as its first commercial television assignment in response to a petition filed by Michael D. Pauley.

DATE: Effective October 19, 1982.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: August 11, 1982.

Released: August 18, 1982.

In the matter of an amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Carroll, Iowa); BC Docket No. 82–252, RM–4068; report and order (proceeding terminated).

1. The Commission has before it for consideration a *Notice of Proposed Rule Making*, 47 FR 22988, published May 26, 1982, in response to a petition filed by Michael D. Pauley ("petitioner") proposing the assignment of UHF television Channel 30 to Carroll, Iowa, as the community's first commercial television assignment. Supporting comments were filed by petitioner and by Harold A. Jahnke expressing interest in applying for the channel, if assigned. No oppositions to the proposals were received.

2. Carroll, a community of 9,705,[1] is the seat of Carroll County which has a population of 22,951, and is located approximately 115 kilometers (72 miles) northwest of Des Moines, Iowa. Carroll has one commercial educational assignment (Channel *18) which is unoccupied and no commercial television service. The nearest commercial television service is approximately 62 miles distant in Ames, Iowa.

3. We believe that the public interest would be served by the assignment of UHF television Channel 30 to Carroll, Iowa, providing that community with its first local commercial television service. The channel can be assigned in compliance with the minimum distance separation requirements and other technical criteria with a site restriction of 3.9 miles south of Carroll, Iowa.

4. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules, it is ordered, that effective October 19, 1982, the Television Table of Assignments (§ 73.606(b) of the Rules) is amended with respect to the community listed below:

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

City	Channel No.
Carroll, Iowa	*18–, 30+

5. It is further ordered, that this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact D. David Weston, Broadcast Bureau, (202) 632–7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–23616 Filed 8–26–82; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 82–247; RM–4072]

Radio Broadcast Services; TV Broadcast Station in Magee, Mississippi Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 34 to Magee, Mississippi, as its first television assignment in response to a petition filed by Magee Broadcasting Company.

DATE: Effective October 19, 1982.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: August 11, 1982.

Released: August 18, 1982.

In the matter of an amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Magee, Mississippi); BC Docket No. 82–247, RM–4072; report and order (Proceeding Terminated).

1. The Commission has before it for consideration a *Notice of Proposed Rule Making*, 47 FR 20828, published May 14, 1982, in response to a petition filed by Magee Broadcasting Company ("petitioner") proposing the assignment of UHF television Channel 34 to Magee, Mississippi, as the community's first television channel. Supporting comments were filed by the petitioner.

No oppositions to the proposal were received.

2. Magee, a community of 3,497,[1] is located in Simpson County which has a population of 23,441, approximately 61 kilometers (38 miles) southeast of Jackson, Mississippi. Magee and the surrounding communities in Simpson County have no local television service. Petitioner states that Magee, as the largest city in Simpson County, is ideally located for industrial and commercial growth and could economically support a first commercial television assignment. Petitioner has reaffirmed its intent to apply for and construct a television station on the channel, if assigned.

3. We believe that the public interest would be served by the assignment of UHF television Channel 34 to Magee, Mississippi, in order to provide that community with its first local television service. The channel can be assigned in compliance with the minimum distance separation requirements and other technical criteria.

4. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules, it is ordered, that effective October 19, 1982, the Television Table of Assignments, § 73.606(b) of the Rules, is amended with respect to the community listed below:

City	Channel No.
Magee, Miss.	34+

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

6. For further information concerning this proceeding, contact D. David Weston, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-23617 Filed 8-26-82; 8:45 am]

BILLING CODE 6712-01-M

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

47 CFR Part 73

[BC Docket No. 82-174; RM-4029]

Radio Broadcast Services; TV Broadcast Station in Scottsbluff, Nebraska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF Television Channel 16 to Scottsbluff, Nebraska, as its second television assignment in response to a petition filed by Dakota Broadcasting Co., Inc.

DATE: Effective October 19, 1982.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: August 11, 1982.

Released: August 18, 1982.

In the matter of an amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Scottsbluff, Nebraska); BC Docket No. 82-174, RM-4029; report and order (Proceeding Terminated).

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 47 FR 15378, published April 9, 1982, in response to a petition filed by Dakota Broadcasting Co., Inc. ("petitioner"), proposing the assignment of UHF Television Channel 16 to Scottsbluff, Nebraska, as its second television assignment. Supporting comments were filed by petitioner reaffirming its intent to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Scottsbluff, a community of 14,156, in Scottsbluff County, which has a population of 38,344,[1] is located in western Nebraska, approximately 120 kilometers (77 miles) northeast of Cheyenne, Wyoming. Scottsbluff is presently served by VHF Channel 4 (KDUH-TV)[2] and Channel 10 (KSTF-TV), which provide viewers with programming service from two of the major networks. Petitioner proposes to operate Channel 16 as a satellite of Station KEVN-TV, Rapid City, South Dakota, providing viewers with a third network programming service. In his supporting comments to the proposal, petitioner incorporated by reference the information contained in the *Notice*, which indicated the stability, size and economic prospects of the Scottsbluff community and its need for a full complement of network television programming.

3. We believe that the public interest would be served by assigning UHF Television Channel 16 to Scottsbluff, Nebraska. Petitioner has adequately demonstrated the need for a second television allocation to that community and the assignment can be made in compliance with the minimum distance separation requirements of the rules and other technical criteria.

4. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§0.281 and 0.204(b) of the Commission's Rules, it is ordered, that effective October 19, 1982, the Television Table of Assignments (§ 73.606(b) of the Rules) is amended with respect to the community listed below:

City	Channel No.
Scottsbluff, Nebr.	10-, 16

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

6. For further information concerning this proceeding, contact D. David Weston, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-23618 Filed 8-26-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures were taken from the 1980 U.S. Census, Advance Report.

[2] Channel 4 is assigned to Scottsbluff-Hay Springs, Nebraska, in § 73.606(b) of the Commission's rules and licensed to serve Scottsbluff.

47 CFR Parts 90 and 95

[Docket No. 18921; RM-1197; RM-1218; RM-1330]

New Practices and Procedures for Cooperative Use and Multiple Licensing of Stations in the Private Land Mobile Radio Services; Order Deferring Effective Date

AGENCY: Federal Communications Commission.

ACTION: Final rule; Deferral of compliance date.

SUMMARY: The Federal Communications Commission is deferring the time for licensees to comply with § 90.185 (d) and (e) of the rules regarding multiple licensing until the Commission considers pending Petitions for Reconsideration and acts on the merits of these requests.

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

FOR FURTHER INFORMATION CONTACT: John Borkowski, Private Radio Bureau, (202) 634–2443.

SUPPLEMENTARY INFORMATION:

Adopted: August 17, 1982.

Released: August 20, 1982.

In the matter of amendment of Parts 89, 91, 93 and 95 of the Commission's Rules and Regulations to Adopt New Practices and Procedures for Cooperative Use and Multiple Licensing of Stations in the Private Land Mobile Radio Services; (47 FR 19527; 5–6–82).

1. On April 13, 1982, the Commission released a *Report and Order* in this proceeding, *Private Land Mobile Radio Services,* 89 FCC 2d 766 (FCC 82–129), adopting new rules for cooperative use of radio stations and for multiple licensing of radio transmitting equipment in the private land mobile radio services.

2. The Commission has received a number of Petitions for Reconsideration of this Report and Order which address new rule § 90.185 (d) and (e) adopted therein. The effect of this rule section is to preclude suppliers of multiple licensed transmitters from becoming licensees on the same facilities they make available on a commercial basis to other private land mobile radio services eligibles for licensing. Many ask that the Commission reconsider this point. They request that the Commission continue to permit equipment suppliers to be licensed on the facilities they own and make available to others for multiple licensing. They argue that these equipment suppliers have valid communications requirements of their own relating to their internal business operations and that the public interest is not served by making them build duplicate facilities.

3. The effective date specified in the Report and Order, *supra,* by which these entities must bring themselves into compliance with § 90.185 is September 1, 1982.

4. However, in order to give the Commission an opportunity to review this matter and decide whether to grant the relief requested, we are suspending the effective date for compliance with this rule section until the Commission has the opportunity to act on the Petition for Reconsideration.

5. Accordingly, pursuant to §§ 0.131, 0.331 and 1.429(k) of the Commission's Rules, 47 CFR 0.131, 0.331 and 1.429(k), and Sections 4 (i) and (j) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j) and 303, it is ordered that the effective date for compliance of existing systems with Paragraphs (d) and (e) of § 90.185 is delayed pending a decision on the Petitions for Reconsideration of the *Report and Order, supra,* in this proceeding.

Robert S. Foosaner,

Acting Chief, Private Radio Bureau.

[FR Doc. 82–23624 Filed 8–26–82; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1211 and 1253

[No. 38847]

Elimination of Accounting and Reporting Requirements for Rate Bureaus

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: This rule eliminates the Uniform System of Accounts (USOA) and requirement to file Annual Report Form RBO for Rate Bureaus. The Commission has determined that its use of the information no longer justifies the accounting and reporting burden. Approximately 77 Class I and Class II rate bureaus will be relieved from these requirements. The total reduction in reporting burden from this rule is estimated to be about 1000 hours per year.

DATE: This rule is effective for the accounting and reporting year beginning January 1, 1982.

ADDRESS: Copies of this rule may be purchased by contacting: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423; (202) 289–4357—DC Metropolitan Area, (800) 424–5403—toll free for outside the DC area.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., (202) 275–7448.

SUPPLEMENTARY INFORMATION: As part of the Commission's continuing effort to reduce regulatory burden and better comply with the Policy Statement on Financial and Statistical Reporting (44 FR 27537), the Commission has decided to eliminate the accounting and reporting requirements of Class I and Class II rate bureaus. After studying the use of the information filed, we have determined that the hours spent to comply with our accounting and reporting requirements are no longer justifiable. These reports are not being used by the Commission on a regular or frequent basis and are no longer needed as background information for rate bureau investigations.

This rule will result in a substantial reduction in reporting burden for rate bureaus. There are presently 77 Class I and Class II rate bureaus filing Annual Report Form RBO. The provisions of this final rule will relieve these organizations from approximately 1000 hours of reporting burden.

This rule does not eliminate the record requirements prescribed in 49 CFR 1253.10, Accounts; 1253.20, Other records (revised); and 1253.30, Retention of records. Further, Class I and Class II rate bureaus will be required to advise the Commission of any change in legal address by notifying the Office of the Secretary and provide information deemed necessary by the Commission when requested. This rule does not relieve Class I and Class II rate bureaus of their accounting and reporting responsibilities with other agencies or jurisdictions.

The Commission finds that a notice of proposed rulemaking as defined under the Administrative Procedure Act, 5 U.S.C. 553(b), is not required to adopt this revision because it involves a reduction in accounting and reporting burden. However, in keeping with our relief that any rule can benefit from public scrutiny, we are requesting that the public study the rule and report, within 45 days, any suggested changes. If the Commission concludes after reviewing the comments, that it is necessary to reconsider this rule, a further notice will be published in the **Federal Register.** Otherwise, the provisions of this Final Rule are in effect.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Commission has certified that this final rule will not have a significant economic impact upon a substantial number of small entities. This rule affects approximately 77 Class I and Class II rate bureaus and will reduce their reporting burden by 1,000 hours annually. No substantial number of small entities shall suffer from this action.

This final rule does not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1211

Uniform system of accounts.

49 CFR Part 1253

Reporting requirements.

Accordingly, we adopt the changes to Title 49 of the Code of Federal Regulations as set forth in Appendix A.

This rule is issued under authority of 49 U.S.C. 10706 and 11145, and 5 U.S.C. 553.

Decided: August 12, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

Title 49 CFR shall be amended by making the following changes:

PART 1211—RATE BUREAU [REMOVED]

1. Remove 49 CFR Part 1211—Rate Bureaus

PART 1253—RATE-MAKING ORGANIZATION; RECORDS AND REPORTS

2. Amend 49 CFR Part 1253 as follows:

(a) In § 1253.20, after paragraph (b) add the following new paragraph (c) to read as follows:

§ 1253.20 Other records.

* * * * *

(c) All rate bureaus are required to (1) advise the Commission of any change in legal address by notifying the Office of the Secretary and (2) submit information to the Commission when requested.

§ 1253.40 [Removed]

(b) Remove section 1253.40, Reporting requirements.

[FR Doc. 82-23547 Filed 8-26-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 167
Friday, August 27, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 222]

Food Stamp Program: State Plans and Operating Guidelines, Forms, and Waivers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rule would amend the Food Stamp Program regulations, published January 21, 1981 (46 FR 6310) regarding State Plans of Operation (7 CFR 272.2) and Operating Guidelines, Forms, and Waivers (7 CFR 272.3). The proposed changes to the current Food Stamp Program regulations are in the following areas: reducing the requirement in the State Plan of Operation regulations for quarterly submission of the Budget Projection Statement, Form FNS–366–A; eliminating the requirement for prior approval by the Food and Nutrition Service of operating guidelines and forms; and, redefining the Department's authority to grant operational waivers. These regulatory changes are intended to reduce the administrative complexity of the program, and to provide increased State flexibility in administering the program.

DATE: Comments must be received on or before October 26, 1982 to be assured of consideration.

ADDRESS: Comments should be submitted to Claire Lipsman, Director, Program Development Division, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at Park Office Center, 3101 Park Center Drive, Alexandria, Virginia, 22302, Room 708.

FOR FURTHER INFORMATION CONTACT: If you have any questions please contact Jerome M. Magri, Supervisor, Procedures and Training Section, Program Standards Branch, Program Development Division, Food and Nutrition Service, Alexandria Virginia. Phone (703) 756–3431.

SUPPLEMENTARY INFORMATION:

Classification

This proposal has been reviewed with regard to the requirements of executive Order 12291, and it has been determined that the proposal is not a major rule as defined by that order. It is not likely to result in an annual effect on the economy of $100 million or more. State food stamp agencies, when implementing these proposed regulatory changes, might experience a savings in administrative costs due to a lessening of regulatory requirements. This proposal is not likely to result in a major increase in costs or prices for consumers, individual industries, Federal or local government agencies or geographic regions. Because this proposed rule would not affect the business community, it would not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposal has also been reviewed with regard to the requirements of Public Law 96–354, and the Administrator of the Food and Nutrition Service (FNS) has determined that the proposal does not have a significant economic impact on a substantial number of small entities. The proposal has no impact on small businesses or small organizations. The primary impact of implementing the proposed changes is on State governments, and on county governments to the extent they operate the program within States.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions contained in this proposed rule have been or will be submitted for approval to the Office of Management and Budget. (OMB approval numbers: 0584–0083 and 0584–0064.) These procedures are not effective until OMB approval has been obtained.

Introduction

The Department is committed to reducing the administrative complexity of the Food Stamp regulations, and to providing increased State agency flexibility. To further these goals, FNS convened a task force which included representatives from the State agencies, the American Public Welfare Association, and Family Nutrition Programs to review program regulations and to make suggestions for regulatory reform. The Food Stamp Regulatory Review Task Force provided three recommendations for the provisions in the current regulations on the State Plan of Operation, the Operating Guidelines, Forms and Waivers. These recommendations were: (1) To simplify and reduce the reporting burden for the State Plan of Operations; (2) to eliminate FNA approval of operating guidelines and forms; and (3) to allow waivers of any regulatory provision not required by statute. This proposed rulemaking would revise the policy in these areas.

On January 21, 1981, a final rule was published (43 FR 47856) regarding State Plan of Operation (7 CFR 272.2) and State Operating Guidelines, Forms, and Waivers (7 CFR 272.3) under the Food Stamp Act, as amended. These sections set forth procedures and requirements for State agencies to document to FNS and to State staff the manner in which the Food Stamp Program will be administered.

State Plan of Operation

Currently, the State Plan of Operation regulations contain requirements that the Budget Projection Statement, Form FNS–366–A, be submitted to the Food and Nutrition Service quarterly. The regulations also require that an Organizational Outline and the State agency agreements with other agencies be submitted as attachments to the Program Activity Statement on an annual basis. In reexamining the Plan of Operation requirements, the Department determined that these were areas in which action could be taken to reduce the State agency burden. To reduce the burden on State agencies, the Department is proposing that the Budget Projection Statement be submitted annually in advance of the Federal fiscal year to which it pertains. Further, the Department would require the Organizational Outline and agreements

with other agencies to be submitted only once, with updates provided as necessary. The Department reviewed other components of the Plan of Operation, including the Program Activity Statement, but concluded that further simplification was not possible due to legislative requirements and the need for administrative oversight.

Operating Guidelines

The regulations currently require State agencies to submit for FNS approval forms and operating guidelines to be used by eligibility workers in the certification process or to instruct other State agency employees on new food stamp-related duties. The forms and guidelines may not be used by the State until FNS approval is obtained. The Department, in an effort to provide States more flexibility in their administration of the program, is proposing to relinquish all prior approval authority for State operating guidelines and most forms. Under the proposed rule, State agencies would be able to revise and distribute policy direction to their staff and revise forms on a more timely basis as they need not wait for FNS approval before using the new materials. The following forms are included in this provision: (1) Application Worksheet, FNS–386; (2) Action Taken on Your Administrative Disqualification Hearing, FNS–394; (3) Advance Notice of Your Administrative Disqualification Hearing, FNS–396; (4) Demand Letter for Overissuance, FNS–437; (5) Continuing Your Food Stamps (Notice of Expiration) FNS–439; (6) Reduction in Food Stamps (Notice of Adverse Action), FNS–441; and (7) Action Taken on Your Food Stamp Case (Notice of Eligibility, Denial or Pending Status), FNS–442. The Application for Food Stamps, FNS–385 and the Change Report Form, FNS–387 are not the subject of this provision. The Act mandates that these two forms be designed or approved by the Secretary.

The State agency would be free to submit the material to FNS for informal review and comment prior to issuance, but would be under no obligation to do so. FNS would require, however, submission of copies of the changes to the appropriate Regional office simultaneously with its distribution within the State to ensure that FNS has an accurate record of State operating procedures. State agencies would assume responsibility for issuance of forms and policy in compliance with FNS regulatory requirements and liability for any losses resulting from implementation of incorrect policy. FNS reviews of State agencies under the Performance Reporting System will be conducted to determine compliance with the Food Stamp Program regulations.

Waivers

The current regulations restrict Departmental authority to waive regulatory requirements by prohibiting waivers which are inconsistent with statutory provisions or national eligibility standards, which would result in a delay, denial, or reduction in benefits or a denial of due process guarantees, or which would alter processing standards for initial applications or actions on changes. These limitations were designed to assure that any waiver granted by the Department would not result in procedures which were inconsistent with the Act or which materially impair the substantive rights of recipients or applicants. In their apparent specificity, however, they have proved confusing and the Department believes they should be simplified. Therefore, the Department is proposing in this rule to redefine the authority to grant waivers. FNS would have the authority to approve any waiver which was not inconsistent with statutory provisions and which would not result in a material impairment of rights granted to the household by the Act or regulations. The proposed waiver language would permit the Department to fully exercise its authority within legal limits set by the Food Stamp Act and the Administrative Procedure Act (APA). Except under demonstration authority, the Secretary may not change requirements set by statute. Similarly, the Secretary may not unilaterally change for one State a right defined for program participants in regulations promulgated in accordance with APA notice and comment rulemaking procedures. Under this proposed rule, however, the Department could grant waivers to permit improved program procedures or operations, even if they differ from specific regulations, provided the change will not materially impair a household's rights.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs/Social programs, Records, Reporting requirements;

7 CFR Part 273

Administrative practice and procedures, Aliens, Claims, Food stamps, Fraud, Grant programs/Social programs, Penalties, Records, Reporting requirements, Social security, Students.

Therefore Parts 272 and 273 are proposed to be amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. A new subparagraph (45) is added to § 272.1(g) as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(45) Amendment 222. This amendment shall be implemented by the first day of the month following the 30th day after publication.

2. In § 272.2, paragraph (c)(1)(i) is revised; the introductory language in paragraphs (c)(2) and (c)(3) is revised; and, paragraphs (e)(2)(i) and (e)(3) are revised. The changes read as follows:

§ 272.2 Plan of operation.

* * * * *

(c) *Budget Projection Statement and Program Activity Statement.*

(1) * * *

(i) The Budget Projection Statement solicits projections of the total costs for nine areas of program operations (certification, issuance, performance reporting, fair hearings, training, ADP development, ADP operations, fraud control, and other). The Budget Projection Statement is to be submitted annually and shall contain projections for each quarter of the next fiscal year. The State agency shall submit with the Budget Projection Statement a narrative justification documenting and explaining the assumptions used to arrive at the projection. The narrative shall cover such subjects as: the number and salary level of employees; other factors affecting personnel costs, including anticipated increases in pay rates or benefits, and reallocations of staff among units or functions, insofar as these might result in cost increases or decreases; costs for purchasing, leasing, and maintaining equipment and space, especially as concerns any upcoming, one-time-only purchases of new capital assets such as ADP equipment, renegotiation of leases, changes in depreciation rates or procedures, relocation of offices, maintenance and renovation work, and inflation; issuance system costs, including renegotiation of issuing agent fees and plans to change issuance systems; changes in caseload and factors contributing to increases or decreases in the numbers of recipients and recertifications, including the anticipated impact of economic conditions (and in particular unemployment) and seasonality; cost implications of corrective action plans; anticipated changes in program regulations and operating guidelines and instructions; training needs; travel costs; and adjustments in insurance premiums.

The narrative should cover as many of the items listed above, and any other items deemed relevant by the State agency, as have a significant impact on costs. The State agency is not required to discuss every item in the list in every submission of a Budget Projection Statement. The narrative should concentrate on items that account for increases or decreases in costs from the preceding submissions. * * *

(2) An organizational outline shall be submitted as an attachment to the 1982 Program Activity Statement. Thereafter, an organizational outline shall be submitted only to report a change. The outline shall contain the following information: * * *

(3) *Additional Attachments.* The following shall be attachments or addenda to the Program Activity Statement and shall be submitted as required in § 272.2(e)(3): * * *

* * * * *

(e) Submittal Requirements. * * *

(2) * * *

(i) The Budget Projection Statement shall be submitted annually, no later than August 15 of each year. The first report is due for the 1983 federal fiscal year.

* * * * *

(3) The organizational outline in § 272.2(c)(2) and the additional attachments outlined in § 272.2(c)(3)(ii) shall accompany the 1982 Program Activity Statement for fiscal year 1982 and thereafter shall be submitted only as changes occur. The attachments outlined in § 272.2(c)(3)(i) shall be submitted annually with the Program Activity Statement.

* * * * *

3. In § 272.3, paragraphs (b) (1), (2), and (3) are revised, (b)(4) is removed; and, paragraph (c)(2) is revised. The changes read as follows:

§ 272.3 Operating guidelines and forms.

* * * * *

(b) Submittal of guidelines and forms. (1) State agencies shall develop the necessary forms, except the Application for Food Stamps and the Change Report Form, and other operating guidelines to implement the provisions of the Food Stamp Act and regulations and may distribute such materials without obtaining prior FNS approval. In accordance with § 273.2(b) and § 273.12(b)(1) State agencies shall use the FNS-designed Application for Food Stamps and Change Report Form or an FNS-approved deviation.

(2) State agencies may submit operating guidelines and forms and any amendments to these materials to FNS for review and comments prior to distribution within the State and shall submit such materials to FNS for audit purposes simultaneously with distribution within the State.

(3) If materials are submitted for FNS review and comments, FNS shall respond to State agency requests within 30 days of receipt of such materials. Additionally, FNS shall provide technical assistance upon request.

(c) Waiver * * *

(2) FNS shall not approve requests for waivers when:

(i) the waiver would be inconsistent with the provisions of the Act; or

(ii) the waiver would result in material impairment of any statutory or regulatory rights of participants or potential participants.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

§ 273.10 [Amended]

4. In § 273.10, paragraph (g)(3) is removed and paragraph (4) is redesignated (g)(3), newly-designated paragraph (g)(3) is amended by changing the references to paragraphs (g)(4) contained in the introductory paragraph of the newly-designated (g)(3), and contained in newly-designated (g)(3)(i)(C) to (g)(3).

§ 273.13 [Amended]

5. In § 273.13, paragraph (a)(2) is amended by removing the first and second sentences.

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps)

Dated: August 23, 1982.

Robert E. Leard,

Associate Administrator, Food and Nutrition Service.

[FR Doc. 82-23508 Filed 8-26-82; 8:45 am]

BILLING CODE 3410-30-M

Soil Conservation Service

7 CFR Part 651

Federal Assistance Real Property Acquisition Regulations

AGENCY: Soil Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Soil Conservation Service (SCS) proposes to revise its regulations on federally assisted real property acquisition. The proposed revisions include:

1. The real property requirements for recreation or fish and wildlife purposes in water resource improvements or project developments when SCS-furnished Federal financial assistance is authorized;

2. Technical changes including:

(a) Terminology and definition changes to agree with related regulations;

(b) Making cross references to related regulations; and

(c) Editorial changes for clarity.

These changes are made to clarify and clearly state the requirements imposed by SCS manuals, watershed or measure plans, or grant instruments or contracts. The changes are referenced to the Department of Agriculture's Uniform Federal Assistance Regulations and are being made to conform with 5 U.S.C. 552, which provides that substantive rules of general application be published in the Code of Federal Regulations.

DATE: Comments are due no later than October 25, 1982.

ADDRESSES: Submit written comments on the proposed changes to the Chief, USDA-Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013. All written comments resulting from this notice will be available for public inspection in Room 5208, South Agriculture Building, 14th and Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Wayne F. Maresch, Director, Administrative Services Staff, Room 2203, Auditors Building, 14th and Independence Avenue SW., Washington, D.C., telephone (202) 447–5111.

SUPPLEMENTARY INFORMATION: The following background and comments pertain to the proposed changes: The revisions or additions are to clarify and state clearly the requirements imposed by SCS manuals, watershed or measure plans, or grant instruments or contracts. The changes agree with or are correlated or referenced to the U.S. Department of Agriculture Uniform Federal Assistance Regulations, 7 CFR Part 3015. These changes are being made to conform with 5 U.S.C. 552, which provides that substantive rules of general application be published in the Code of Federal Regulations.

Executive Order 12291 and Regulatory Flexibility Act

This proposed rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been determined to be not a "major rule." It has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices to consumers, individual

industries, Federal, State, or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 5 U.S.C. 605(b) pertaining to the Regulatory Flexibility Act, the Chief certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities, i.e., "small governmental jurisdictions" (5 U.S.C. 601) as the recipients under cooperative agreements (grants) (7 CFR 3015.1). The proposed action imposes no new substantive requirements on the recipients of Federal financial assistance in which SCS has the discretion to take other regulatory actions to accomplish federally assisted projects.

7 CFR Part 651 presently uses the term "landrights" as the general term which describes the real property rights and interests. The proposed regulations use the terms "real property rights" or "interests" as the general term. The term "real property" is more commonly used than the term "landrights."

7 CFR Part 651 presently uses the terms "landrights agreement" and "project agreement" which describe the grant instruments used to furnish Federal financial assistance for real property acquisition and installation of project measures respectively. The proposed regulations use the terms "cooperative agreement for real property acquisition" and "cooperative agreement for installation" respectively. The proposed terminology changes agree with the U.S. Department of Agriculture Uniform Federal Assistance Regulations set forth in 7 CFR Part 3015.

7 CFR Part 651 is revised to cite the Rural Abandoned Mine Program regulations in 7 CFR Part 632, and Subpart G is added which references this program to the requirements in 7 CFR Part 632. Minor editorial changes have been made and the table of contents has been corrected. The evidence of title requirements which previously appeared in § 651.21(c)(1) now appears in § 651.23.

Section 651.1 is revised to implement the property management standards of 7 CFR Part 3015.

Section 651.2 is revised to have the definitions agree with Subpart G of 7 CFR Part 3015.

Section 651.13 is revised to specifically mention sponsor's responsibilities in eminent domain actions, and to set forth an escrow requirement when USDA-Farmers Home Administration loans are involved.

Section 651.15 is added which sets forth the real property and related requirements for accelerated land treatment. These requirements are presently prescribed by the cost-sharing contracts between SCS or sponsors and land users.

Section 651.16 is added which sets forth the real property requirements in connection with nonstructural measures that are authorized by Section 73 of Pub. L. 93–251, Water Resource Development Act of 1974, 33 U.S.C. 7016–11. These requirements are being imposed by an SCS manual and provisions of watershed plans involving nonstructural measures.

Section 651.22 is revised to specifically set out the real property rights and interests to be acquired when SCS-furnished Federal financial assistance is authorized for real property acquisition in connection with recreation or fish and wildlife purposes in water resource improvements or project developments. The proposed regulation sets forth the circumstances when fee title rights are required and the circumstances when less than fee title real property rights are permissible. Also, it sets forth the basic requirements on the minimum areas or boundaries in which certain real property rights are to be obtained. These requirements are presently imposed through watershed or measure plans and related documents.

Section 651.22 is revised to agree with Subpart G of 7 CFR Part 3015.

List of Subjects in 7 CFR Part

Flood prevention, Grant programs—natural resources, Soil conservation, Water resources, Administrative practice and procedure.

Proposed rule

Accordingly, the Soil Conservation Service proposes to revise the table of contents and text of 7 CFR Part 651 to read as follows:

PART 651—FEDERAL ASSISTANCE REAL PROPERTY ACQUISITION REGULATIONS

Subpart A—General

Sec.
651.1 Purpose and scope.
651.2 Definitions.

Subpart B—Real Property Acquisition When No Federal Financial Assistance Is Involved in Acquisition

651.10 General
651.11 Designation of sponsor responsible for real property acquisition.
651.12 Duration of real property rights.
651.13 Responsibilities of sponsors.
Sec.
651.14 Real property requirements for dams and channels.
651.15 Real property requirements for accelerated land treatment.
651.16 Real property requirements for nonstructural measures.

Subpart C—Real Property Acquisition When Federal Financial Assistance Is Involved in Acquisition

651.20 General
651.21 Responsibilities of SCS.
651.22 Real property requirements for improvements and developments.
651.23 Evidence of title.

Subpart D—Conservation Operations

651.30 Responsibility for acquisition of real property rights.

Subpart E—Emergency Watershed Protection

651.40 Responsibility for acquisition of real property rights.

Subpart F—Great Plains Conservation Program

651.50 Responsibility for acquisition of real property rights.

Subpart G—Rural Abandoned Mine Program

651.60 Responsibility for acquisition of real property rights.

Authority: 7 CFR 2.62.

Subpart A—General

§ 651.1 Purpose and scope.

(a) This part sets forth the requirements for Federal financial assistance to projects under programs administered by the Soil Conservation Service (SCS) for—

(1) Acquisition of real property interests including water rights and mineral or subsurface rights;

(2) Acquisition of installation permits;

(3) Acquisition of clearances required by Federal, State, and local statutes; and

(4) Implementation of Part 21 of this title as it relates to the acquisition of interests in real property, and implementation of Subpart R (§ 3015.160–3015.175) or Part 3015 of this title as it pertains to in-kind contributions of interests in real property and real property management standards.

(b) These regulations apply to measures installed under the following programs;

(1) Conservation Operations (CO). See Part 610 of this chapter.

(2) Watershed Protection and Flood Prevention (WP&FP). See Part 622 of this chapter.

(3) Flood Prevention (FP). See Part 623 of this chapter.

(4) Resource Conservation and Development (RC&D).

(5) Emergency Watershed Protection (EWP). See Part 624 of this chapter.

(6) Great Plains Conservation (GP). See Part 631 of this chapter.

(7) Rural Abandoned Mine Program (RAMP). See Part 632 of this chapter.

(8) Specifically authorized projects.

§ 651.2 Definitions.

Acquiring agency. Any agency or organization that has or acquires an interest in real property to carry out a project with Federal financial assistance under programs administered by SCS. In watershed projects and resource conservation and development areas, the acquiring agency must be a sponsor of the project.

Cooperative agreement for installation. A written agreement between SCS and the sponsor(s) establishing detailed working arrangements for the installation of works of improvement or for other related purposes.

Cooperative agreement for real property acquisition. A fund obligating document that identifies the eligible real property interests to be acquired and the amount of the Federal financial assistance to be provided.

Donated real property interest. A conveyance of a real property right or interest:

(a) Made by a nonfederal third party other than a project sponsor; and

(b) The only consideration paid is a pro forma amount, such as $1.00 or other amount customarily cited in conveyance instruments.

Easement. An interest in land that entitles the easement holder to a specific limited use or enjoyment.

Induced flooding. Flooding caused by installation of a project measure.

Real property interest. Any interests acquired or permission obtained to use land, buildings, structures, or other improvements classified or referred to generally as real property or as land, easements, and rights-of-way.

Land uses. Those who individually or collectively use land as owners, lessees, occupiers, or by other arrangement that gives them conservation planning or implementation concern and responsibility for the land.

Mineral right. An interest in minerals, including the right to exploit or develop that interest.

Permit. A permission or license issued by a person in authority or proprietary control empowering the permittee to do some act(s) not forbidden by law but allowable only with that permission or license.

Project measure. An undertaking for watershed protection; flood prevention; the conservation, development, use, and disposal of water; the conservation and proper use of land; or a combination thereof. The undertaking may consist of land treatment, nonstructural or structural measures, or a combination thereof.

Public utilities. The facilities of an organization engaged in regularly supplying some commodity or service needed by the public, such as electricity, gas, steam, water, sewerage, transportation, or telephone or telegraph service.

Sponsor. An agency or organization with authority to provide local responsibility for a Federal financially assisted local project under a program administered by SCS.

State conservationist. The SCS line officer responsible for SCS activities within a particular State, the Commonwealth of Puerto Rico, or the U.S. Virgin Islands.

Term easement. An easement in effect for a specified period of time, such as a term of years or months, or for the life of either the grantor or grantee.

Water right. Any interest acquired in, priority established for, or permission obtained for the use of water.

Subpart B—Real Property Acquisition When no Federal Financial Assistance Is Involved in Acquisition.

§ 651.10 General.

This subpart prescribes the requirements for the acquisition of real property interests when Federal financial assistance is not involved in the acquisition.

§ 651.11 Designation of sponsor responsibilities for real property acquisition.

One or more sponsors are to be responsible for acquiring real property interests including mineral rights, water rights, and permits needed for project measures. The responsible sponsors are to be designated in the work or measure plan along with their authority and sources of funds to acquire real property interests.

§ 651.12 Duration of real property rights.

(a) The sponsor must acquire the necessary real property interests before the cooperative agreement for installation can be signed.

(b) The rights must extend through a reasonable period for planning, installation, and—

(1) The evaluated life of the project measure;

(2) The evaluated life of project measures that are economically evaluated as a unit; or

(3) The useful life of project measures for land conservation or land use.

(c) Permits are sufficient for the following financially assisted project measures;

(1) Project measures that do not require operation and maintenance.

(2) Project measures that are to be operated and maintained by the landowner.

(3) One-time operations within a project measure such as a survey, investigation, or spoil spreading.

(4) Subordination of the rights of utilities within a project measure area.

(d) Term or perpetual easements are required for financially assisted project measures that require operation and maintenance by someone other than the landowner.

§ 651.13 Responsibilities of sponsors.

Sponsors are responsible for—

(a) Acquiring real property interests, water rights, and permits needed for the investigation and survey, installation, inspection, and operation and maintenance of project measures to be installed with Federal financial assistance in conformance with SCS policy set forth in this part;

(b) Acquiring the rights in accordance with Pub. L. 91–646 [42 U.S.C. 4601—4655) and the implementing regulations of the U.S. Department of Agriculture (USDA) (7 CFR 21);

(c) Paying all costs associated with acquiring or failing to acquire real property interests;

(d) Acquiring all real property interests before entering into a cooperative agreement to install the project measures. This requirement would be met by:

(1) Taking eminent domain actions when sponsors have such power and they agree to use it; and

(2) Complying with USDA—Farmers Home Administration requirements when their loans are involved, including the escrow of real property instruments.

(e) Submitting proposed real property related instruments for SCS approval;

(f) Submitting proposed special provisions before they are included in real property instruments; and

(g) Providing certification of adequate titles to interests acquired along with copies of the instruments for SCS review.

§ 651.14 Real property requirements for dams and channels.

(a) *General.* The state conservationist is to determine for each project measure the minimum area for which real property rights must be acquired. In making this determination, the state conservationist is to include all areas needed to comply with the following

criteria, and such additional areas as, in his or her prudent judgment, are to be included because of present, proposed, or possible future land uses that will adversely affect the functioning of the project measure.

(1) *Dams.* The state conservationist is to ensure that the sponsor acquires real property rights for the area of the structure, reservoir, and spillway; areas adversely affected by changed waterflow including but not limited to areas for spillway discharge; areas for environmental and protective features; and other areas needed for activities such as design, operation and maintenance, construction, spoil, borrow, ingress and egress, and diversion of water. If the structure is designed with an emergency spillway, upstream real property rights are required for the area below the higher elevation of either the crest of the primary emergency spillway or the miximum elevation of the water surface attained during passage of the 100-year, 24-hour hydrograph through the structure. If the dam is not designed with an emergency spillway, minimum upstream real property rights are to include all the area below the elevation of the top of the dam. (See § 651.22 of this part for specific requirements for improvement and developments when SCS-furnished Federal financial assistance is involved.

(2) *Channels.* The state conservationist is to ensure that the sponsor acquires real property rights for—

(i) Areas within the channel's designed top width and the berm width necessary on each channel bank to insure stability of the channel, channel banks, and side slopes;

(ii) Areas needed for installation, inspection, design, operation and maintenance, ingress and egress, and disposal and diversion of water;

(iii) Areas needed for environmental protection features; and

(iv) Other areas adversely affected by changed streamflow characteristics or induced flooding.

(b) *Real property work map.* The state conservationist is to furnish the sponsor a real property work map showing the specific areas on which real property interests are to be obtained and the minimum interest that must be acquired in each area. The map is to show landmarks for location of area, acquisition elevations, flowage elevations, apparent tract ownerships, acreages and boundaries, location of the project measure, installations affected by construction such as roads, utility lines, pipelines, railroads, buildings, wells, springs, and bridges, all right-of-way boundaries, routes of ingress and egress where essential, and other similar features.

(c) *Induced flooding.* (1) Before installing any structure that would result in flooding of railroads, highways, public roads, dwellings, buildings, water sources, public utilities, burial sites, and historic sites or monuments, the state conservationist is to apply the following criteria:

(i) Railroads that are to remain in use may not be flooded.

(ii) Highways and public roads may not be flooded below the elevation of the flowage line except under the following conditions:

(A) The highway or public road is closed for a brief period and there is an alternate all-weather route that can be used with a minimum of inconvenience.

(B) A written right or permission to flood the highway or public road has been obtained from the State, county, or agency having jurisdiction over the highway or public road. The written right or permission may be an easement, court order, or, if those cannot legally be given, a permit. The written right or permission must be accompanied by a citation of the applicable State statute or a written opinion of the State attorney general stating that the State, county, or agency granting the permission has legal authority to allow the road to be closed by flooding.

(C) Dwellings are accessible by an all-weather road that will not flood more frequently than it did under preconstruction conditions. If a road providing the only access to a dwelling is at a lower elevation than the flowage line, a historical record of preconstruction flooding is to be developed and documented in the real property file.

(2) The state conservationist may not allow dwellings, including basements, or any other buildings that contain valuable property or that may be used as permanent or seasonal living quarters, to remain in the area requiring flowage rights unless they are flood-proofed or otherwise protected from damage by the storm event used to establish the flowage right elevation. Before financial assistance is made available to a sponsor, the dwelling or building must be demolished, relocated, raised, or protected by a floodwall, and it must be done so that there will be adequate drainage and no unreasonable ponding of water.

(3) If formally requested by the sponsor and approved by the state conservationist, other buildings such as barns and garages may remain in the flowage easement area. Generally, approval for flooding buildings of this type will not be granted if the building is used for the storage of feed, perishable items, supplies, equipment, or other items that would be substantially damaged by flooding. This also applies to any building used for other purposes if flooding would cause an interruption or delay of operations carried on in the building or cause a hazard that may result in injury, death, or damage to the building's contents.

(4) The state conservationist may not allow the flooding of water sources such as springs or wells until sponsors have complied with State laws, ordinances, and regulations relating to water sources.

(5) The state conservationist may not allow public utilities to be flooded unless the utility company has determined that the function of the facility will not be affected adversely and a subordination agreement has been obtained.

(6) The state conservationist may not allow burial sites such as cemeteries and private family plots to be flooded unless disinterment and reburial has been accomplished in accordance with State law.

(7) The state conservationist may not allow historical sites or monuments to be flooded until Part 656 of this title has been complied with.

(8) The state conservationist is to assist the sponsor in obtaining permission to survey for and/or recover archeological or historical resources in accordance with Part 656 of this title.

(9) The state conservationist is to identify apparent water rights needed and develop a procedure for the sponsor to document their compliance with State laws.

(10) The state conservationist is to advise the sponsor of the importance of mineral rights to the project measure and review the findings on outstanding mineral rights against design criteria for the measure.

(11) Before negotiations for real property acquisition begin, the state conservationist is to review and approve all instruments to be used to acquire real property rights except for those used in condemnation proceedings.

(12) The state conservationist is to review all special provisions to be included in real property instruments as a result of the negotiations for the real property right.

(13) The state conservationist is to arrange for periodic inspections of the sponsor's records to see that relocation assistance, relocation assistance advisory services, and relocation payments are being provided and that

the sponsor is complying with pledged assurances.

(14) The state conservationist is to determine the need for and provide technical assistance to the sponsors as available.

§ 651.15 Real property requirements for accelerated land treatment.

The land user is to have control of the land unit to be treated for the contract period. Control means possession of the land unit by ownership or by written leasehold interest. The land user is responsible for obtaining the necessary permits and furnishing the necessary real property and water rights to perform the planned work under the contract.

§ 651.16 Real property requirements for nonstructural measures.

For nonstructural measures, the state conservationist is to determine the minimum rights to be obtained as follows:

(a) *Flood plain acquisition.* The location and the amount of land along with the type of real property rights to be acquired. These rights are to be sufficient and adequate to provide a floodway or to protect the land from development and to provide for any anticipated land use changes.

(b) *Flood warning system.* The location and the minimum rights needed to install, operate, and maintain the flood warning system.

(c) *Floodproofing.* The location of the buildings or other improvement and the type of floodproofing.

(d) *Relocation of existing flood plain properties.* Determine and describe the type, number, and location of the buildings or other improvements to relocate outside the flood plain. If applicable, show the proposed relocation site.

Subpart C—Real Property Acquisition When Federal Financial Assistance Is Involved in Acquisition

§ 651.20 General.

This subpart supplements and modifies Subpart B if SCS-furnished Federal financial assistance is authorized in the acquisition of real property interests.

§ 651.21 Responsibilities of SCS.

(a) SCS is to prepare a cooperative agreement for real property acquisition which sets forth the arrangement for the SCS-furnished Federal financial assistance based on the watershed or measure plan.

(b) The amount of Federal financial assistance shown in the cooperative agreement is to be applied as follows:

(1) For negotiated real property interests the SCS share is to be computed on the price paid by the sponsor or the fair market value jointly determined by the sponsor and SCS, whichever is the lesser amount.

(2) For real property interests acquired by condemnation, SCS provides financial assistance computed on the amount of damages awarded by the court. However, if SCS considers the court award excessive and the sponsor does not exercise an appeal that SCS considers necessary, the financial assistance is to be based on the fair market value determined by SCS.

(3) For real property interests contributed by sponsors or by nonfederal third parties other than sponsors, the in-kind credits will be determined and applied as set forth in 7 CFR 3015.50—3015.56.

(4) For real property costs included in a cooperative agreement for installation, SCS financial assistance is to be computed on the actual cost of the work incurred under the cooperative agreement.

(c) SCS provides financial assistance to perform appraisals in satisfying the requirements for appraisal and review under Part 21 of this title.

§ 651.22 Real property requirements for improvements and developments.

(a) Fee simple title rights and interest are required for all privately owned land acquired for recreation or fish and wildlife purposes in a water resource improvement or project development when SCS-furnished Federal financial assistance is authorized.

(b) Fee simple title is preferred for all nonfederal public land; however, if it is not feasible to obtain fee title, a perpetual easement is acceptable.

(c) Real property rights for developments include the dam site, spillway area, and land in the reservoir area up to at least the designed maximum water elevation reached during passage of a 100-year frequency storm or 100-feet horizontally from the perimeter of the designed permanent pool, whichever is greater. However, acquisition by fee title may be terminated 200 feet upstream from the head of the beneficial pool in each arm of the reservoir.

(d) At least one access road must be provided to all principal recreation areas. Rights-of-way for public utilities needed to service improvement are to be at least perpetual easement rights.

§ 651.23 Evidence of title.

Sponsors are to obtain preliminary evidence of title for all fee simple interests for which Federal financial assistance is authorized. After SCS approves the preliminary title evidence, the sponsor may proceed to acquire the property. Federal financial assistance for fee simple interests may not be provided until the property has been acquired and final title evidence has been approved.

Subpart D—Conservation Operations.

§ 651.30 Responsibility for acquisition of real property rights.

Land users who receive technical assistance on conservation practices are responsible for obtaining the real property rights necessary to carry out the practice. Land users must indemnify and save the United States harmless from any infringements on the rights of others or from any failure to comply with applicable laws or regulations.

Subpart E—Emergency Watershed Protection

§ 651.40 Responsibility for acquisition of real property rights.

Sponsors are responsible for the acquisition of real property rights needed for emergency measures. The pertinent procedures set forth in Subpart B apply to these measures.

Subpart F—Great Plains Conservation Program

§ 651.50 Responsibility for acquisition of real property rights.

Responsibility for practices under the Great Plains Conservation Program is set forth in § 631.30 of this chapter.

Subpart G—Rural Abandoned Mine Program

§ 651.60 Responsibility for acquisition of real property rights.

Responsibility for practices under the Rural Abandoned Mine program is set forth in § 632.22 of this chapter.

Date: July 17, 1982.

Peter C. Myers,

Chief.

[FR Doc. 82-23462 Filed 8-26-82; 8:45 am]

BILLING CODE 3410-16-M

Agricultural Marketing Service

7 CFR Part 981

Handling of Almonds Grown in California; Proposed Salable, Reserve, and Export Percentages for the 1982-83 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given of a proposal to establish salable, reserve, and export percentages of 98 percent, 2 percent, and 0 percent, respectively, for marketable California almonds delivered to handlers during the 1982–83 crop year, which began July 1, 1982. The reserve would be used to develop and market almond butter to consumers at a competitive price. This action is taken under the marketing order for almonds grown in California.

DATE: Comments must be received by September 10, 1982.

ADDRESS: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

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

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified a "non-major" rule under criteria contained therein.

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 because it would result in only minimal costs being incurred by the regulated 26 handlers.

J. S. Miller has determined that this proposal should be published with less than a 60-day comment period because the current crop year began on July 1, 1982, and the percentages contained herein will automatically apply to all marketable almonds beginning with such date.

The authority to establish salable and reserve percentages in pursuant to § 981.47 of the marketing agreement and Order No. 981, both as amended (7 CFR Part 981), regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order". The order is effective under the Agricultural marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal is based on a unanimous recommendation of the Almond Board of California, hereinafter referred to as the "Board" which works with USDA in administering the order.

The proposal is to make 98 percent of the 1982 marketable almond production delivered to handlers, an estimated 333.2 million pounds, available to supply normal domestic and export outlets during the 1982–83 crop year and to provide adequate carryover. The Board's marketable production estimate of 340 million pounds is based upon its 1982 crop estimate of 365 million pounds minus an estimated weight loss of 25 million pounds. The weight loss is expected from the removal of inedible kernels by handlers and losses during manufacturing.

The estimates used by the Board in making its July 29, 1982, recommendation for salable and reserve percentages are as follows:

MARKETING POLICY ESTIMATES—1982 CROP

[Kernel weight basis]

	Million pounds	Percent
Estimated production:		
1. 1982 crop	365.0	.....
2. Loss and exempt—6.85 pct	25.0	.....
3. Marketable supply	340.0	.....
Estimated trade shipments:		
4. Domestic	140.0	.....
5. Export	220.0	.....
6. Total	360.0	.....
Inventory adjustment:		
7. Carryin July 1, 1982	161.0	.....
8. Estimated carryover June 30, 1983	134.2	.....
9. Adjustment	(26.8)	.....
Salable and reserve:		
10. Salable supply (6+9)	333.2	.....
11. Reserve supply (3−10)	6.8	.....
12. Salable percent (10÷3×100)		98.0
13. Reserve percent (100 pct −12)		2.0
Reserve disposition:		
14. Reserve supply (Item 11)	6.8	.....
15. Allocated reserve available for industry almond butter program and school lunch program	6.8	.....
16. Unallocated reserve (item 14 minus item 15)	0	.....

Trade shipments are estimated at 360 million pounds—140 million pounds for domestic needs and 220 million pounds for export needs. A carryover adjustment of minus 26.8 million pounds is the result of an estimate of 134.2 million pounds for desirable handler carryover from the 1982 crop minus the 161 million pounds handlers carried over from the 1981 crop. After adjusting for inventory, the salable supply is 333.2 million pounds, the quantity of almonds from the 1982 estimated marketable production for trade demand needs.

Two percent (6.8 million pounds) of the estimated marketable 1982 production delivered to handlers would be available to develop new outlets noncompetitive with existing normal domestic and export outlets. The development of such new outlets is a long-term necessity for the industry because of anticipated larger crops. The Board plans to use the reserve to develop a market for almond butter and has presented an industry-wide project. The Board's objective is to develop a permanent consumer demand for almond butter and related products that, in time, could absorb a large quantity of almonds. To insure success with this project the Board believes that initially it is necessary to keep almond butter competitive with peanut butter, which currently dominates the market. In addition, the Board plans to promote the use of almonds in school lunch programs with the objective that such use would be on a regular basis.

The order permits the Board to include normal export requirements with domestic requirements in its estimate of trade demand when recommending the establishment of salable and reserve percentages for any crop year. For the 1982 crop year estimated exports are included in trade demand, thereby making export a salable outlet rather than a reserve outlet. Because of this action, no portion of the reserve will be eligible for export to normal outlets. Thus, an export percentage of 0 is proposed.

List of Subjects in 7 CFR Part 981

Agricultural marketing agreements and orders, Almonds, and California.

PART 981—ALMONDS GROWN IN CALIFORNIA

The proposal is as follows:

§ 981.231 Salable, reserve, and export percentages for almonds during the crop year beginning July 1, 1982.

The salable, reserve, and export percentages during the crop year beginning July 1, 1982, shall be 98 percent, 2 percent, and 0 percent, respectively.

Dated: August 23, 1982

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 82–23536 Filed 8–26–82; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1011

Milk in the Tennessee Valley Marketing Area; Termination of Proceeding on Proposed Temporary Revision of Supply Plant Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of proceeding on proposed temporary revision of rule.

SUMMARY: This action terminates a proceeding on a proposal to reduce temporarily the pooling standards for supply plants regulated by the Tennessee Valley Federal milk order.

The proposal, which would reduce the shipping requirement for the months of August through November 1982 from 60 percent to 50 percent, was made by the operator of a pool supply plant. A cooperative association representing a substantial majority of the producers on the market submitted comments opposing the temporary revision. Because of conflicting viewpoints, no action to reduce the shipping requirement for supply plants is being taken at this time. However, a petition for a hearing to consider changing the supply plant shipping standard has been received and is being considered with respect to whether a hearing should be called.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Proposed Temporary Revision of Shipping Percentage: Issued July 19, 1982; published July 23, 1982 (47 FR 31886).

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

Notice of proposed rulemaking was published in the **Federal Register** (47 FR 31886) concerning a proposed decrease in the shipping requirement for pool supply plants for the months of August through November 1982. Interested parties were afforded 7 days in which to comment on the proposal by submitting written data, views, or arguments. Comments were received from two interested parties.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that the supply plant shipping percentage set forth in § 1011.7(b) should not be decreased from 60 percent to 50 percent for the months of August through November 1982.

Kraft, Inc., which operates a supply plant regulated by the Tennessee Valley order, requested a temporary reduction in the supply plant shipping requirement of 10 percentage points. Kraft stated that over the past year the Tennessee Valley market has experienced an increase in milk production without a corresponding increase in Class I sales. The handler claimed that this marketwide development makes it difficult for its supply plant to meet the 60 percent shipping requirement without engaging in uneconomic shipments of milk if it wishes to maintain pool plant status. Kraft noted that the general imbalance of supply over demand in the Tennessee Valley market recently required emergency rulemaking to ease the burden of surplus milk disposition. Also, the handler indicated that its situation is affected by an increase in the number of producers delivering milk to its supply plant.

Dairymen, Inc. (DI), a cooperative association which represents a substantial majority of the producers associated with the Tennessee Valley market, opposes the reduction. DI states that the Tennessee Valley market historically has been a high Class I utilization market and that the present supply plant shipping requirements were instituted to insure that milk would be available to distributing plants when needed. DI also contends that Kraft has made no attempt to alter its operation in an effort to meet the 60 percent shipping requirement and has in fact taken on additional producers in the face of relatively level Class I sales. The cooperative asserts that Kraft's operation is designed not to serve the fluid market but primarily to obtain a supply of milk to be used in manufactured dairy products. DI, therefore, argues that the shipping standards should not be reduced to make it easier for Kraft to associate with the pool milk that it believes will be used primarily for manufacturing, since this would result in a lowering of the order's marketwide blend price.

The Tennessee Valley market has undergone some changes in marketing conditions in the past 18 months. Although month-to-month and year-to-year comparisons are complicated by the varying regulatory status of certain plants, the trend in the market has been towards increased producer milk receipts and almost no growth in Class I sales. Increases in production have resulted from greater output by producers historically associated with the Tennessee Valley market, and by the addition of new producers to the market.

Historically, this market has had a high Class I utilization. However, the percentage of producer milk in Class I has been declining consistently for the past two years. The percent of producer milk in Class I averaged about 5 percentage points less in 1981 than in 1979. For the first six months of 1982 this figure has averaged about 6 percentage points below year-earlier levels. For the short-production months of August through November, the percent of producer milk in Class I averaged 78.6 percent in 1981. There is some preliminary indication that the production increases of the past two years may be smaller in coming months. Nevertheless, it is expected that the percent of producer milk in Class I will continue to be below year-ago levels in the coming short-production season.

These data indicate that the Tennessee Valley marketing area has experienced some changes in marketing conditions, of which Kraft's problem may be only one manifestation. Thus, it is difficult to characterize Kraft's situation as "temporary" or as having resulted from an unforeseen short-term "emergency," conditions that were mentioned in the Department's March 12, 1982, decision (47 FR 11679) as a basis for considering a temporary revision in the pooling standards. Under these circumstances, any regulatory solution to the problem outlinded by Kraft should result from a formal rulemaking proceeding rather than from an informal temporary revision.

Kraft has petitioned the Department to hold a hearing on the shipping requirements for supply plants regulated by the Tennessee Valley order. The request is under consideration.

In view of these circumstances, it is concluded that the supply plant shipping requirements should not be revised for the months of August through November 1982. Accordingly, the proceeding begun in this matter on July 19, 1982, is hereby terminated.

List of Subjects in 7 CFR Part 1011

Milk marketing orders, Milk, Dairy products.

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

Edward T. Coughlin,

Director, Dairy Division.

FR Doc. 82–23582 Filed 8–26–82; 8:45 am]

BILLING CODE 3410–02–M

Rural Electrification Administration

7 CFR Part 1701

Proposed Revision of REA Form 804

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend Appendix A—REA Bulletins by adding a new REA Bulletin 50–3, Specifications and Drawings for 12.5/7.2 kV Line Construction (D–804). This bulletin sets forth revised drawings and

will include the addition of drawings showing the use of post insulators. The specification section has also been explained to reflect current practices.

DATE: Public comments must be received by REA no later than October 26, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mr. Harvey L. Bowles, Distribution Standards Branch, Rural Electrification Administration, Room 1266, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382-9080. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR Part 1701, Appendix A—REA Bulletins, by adding a new REA Bulletin 50-3, Specifications and Drawings for 12.5/7.2 kV Line Construction (D-804). This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A-95 review requirements. This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

This proposed action will establish one in a series of new REA Bulletins covering specifications and drawings for line construction. This particular proposal will update the material and include new structures and assemblies and should significantly improve the borrower's basis for selection. Drawings showing post insulator construction are being added to the present pin insulator construction drawings. Minor corrections are being made to several drawings and, where necessary, drawings are being revised to conform with the latest edition of the National Electrical Safety Code. The maximum line angle for post or pin insulator construction is being reduced from 30° to 20° to facilitate hot line work.

Among the drawings being deleted are A1-2 and A2-3 because the double support plate for the neutral is being deleted. REA is considering deleting Drawings M40-12, M40-13, M45-20, M45-21, and M45-22 because these drawings show the methods used to install formed type armor rods and compression splices. Instead of REA providing instructions on the use of these products, it is felt that the manufacturer's recommendation should be followed. REA is considering deleting Drawings M40-1A, M40-1A2, M40-6, M40-8, M40-10, M40-16, M40-17, and M40-19 because these drawings show the installation of hand ties. Most ties being used today are the factory formed type. REA is also considering revising Drawing M8-9 to show a consumer-provided conduit for the load-side conductors. This will prevent the line-side and load-side conductors from being in the same conduit. This proposed bulletin will replace REA Form 804, Specifications and Drawings for 7.2/12.5 kV Line Construction.

In view of the need to update REA's existing specifications and drawings for line construction it is hereby proposed to issue a new REA Bulletin 50-3, Specifications and Drawings for 12.5/7.2 kV Line Construction (D-804). A copy of the proposed publication is available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspections during regular business hours, above address.

List of Subjects in 7 CFR Part 1701

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

Dated: August 19, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82-23271 Filed 8-26-82; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 323 and 326

[PDR-81; Procedural Regulations Docket: 40916]

Terminations, Suspensions, and Reductions of Service and Procedures for Bumping Subsidized Air Carriers From Eligible Points

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Civil Aeronautics Board (CAB) proposes procedures under which an airline serving a community with subsidy could be replaced by another carrier offering to provide better service or offering to provide service at a lower subsidy cost. The Small Community Air Service section of the Federal Aviation Act provides for this sort of replacement. These procedures are proposed at the Board's own initiative to implement this provision of the Act.

DATES: Comments by: October 12, 1982.

Comment and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: September 13, 1982.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40916, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: William Boyd, Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5408; or David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION: Under section 419 of the Federal Aviation Act, the Civil Aeronautics Board guarantees essential air transportation to all communities that are eligible points. Eligible points are communities that were listed on an airline certificate in 1978 and other communities that were deleted from such certificates between 1968 and 1978 that the Board designates as eligible under 14 CFR Part 270. The Board has established procedures and guidelines in 14 CFR Parts 325 and 398 for establishing essential air transportation levels for eligible points.

At some eligible points there is insufficient traffic to support profitable air carrier operations. For these points, section 419 requires the Board to pay a subsidy to an airline to provide the established level of essential air service. There are two subsidy programs. The section 406 subsidy program (49 U.S.C. 1376) was enacted in 1938 and was

designed primarily to pay for the carriage of mail and to aid in the development of the national air transportation system, rather than to ensure continued essential air service to small communities. More recently, incentives have been built into the 406 subsidy program to encourage continued service at small eligible points, but this subsidy program is being phased out in favor of the section 419 subsidy program (49 U.S.C. 1389). The section 419 subsidy is directed specifically toward ensuring essential air service at eligible points.

Section 419 contains two paragraphs, (a)(11) and (b)(8), that are commonly known as the "bumping provisions." Under these provisions, a carrier may apply to replace (bump) another carrier that is receiving a subsidy under either section 406 or section 419. If it succeeded in "bumping" the incumbent carrier, it could receive a subsidy for serving the eligible point involved, or merely terminate the incumbent's subsidy and serve the point itself subsidy-free. If it chose to apply for a subsidy, the subsidy it received would be established under section 419 of the Act even if the incumbent had been subsidized under section 406. These bumping provisions take effect by their own terms on January 1, 1983.

The purpose of this proceeding is to establish procedures for bumping cases. The procedures proposed below apply where the incumbent carrier at an eligible point is receiving a subsidy that another carrier seeks to terminate or obtain for itself. Where service is provided subsidy-free, any air carrier may enter the market and compete without obtaining permission from the Board. Also, a carrier is not prohibited from competing against a subsidized incumbent and need not undergo any Board procedures if it is not seeking that subsidy for itself or seeking to have the incumbent's subsidy terminated.

To initiate a bumping proceeding, an air carrier must file an application with the Board's Docket Section. If the incumbent carrier that is the target of the application is receiving its subsidy under section 406 of the Act, the application may be filed at any time after January 1, 1983, when the bumping provisions in the Act take effect. If the incumbent is receiving its subsidy under section 419, however, the Act gives it a grace period. It cannot be bumped from an eligible point unless it "has been serving such eligible point for at least two years preceding the date on which" the bumping application is filed. It would be subject to bumping if it had been serving the point for at least 2 years even if it had been receiving the subsidy for a lesser time.

The bumping application would be required to identify the point and parties involved, to contain information necessary to establish the applicant's fitness to provide the essential service, and to provide an adequate justification for the subsidy requested, including a complete revenue and costing evaluation such as that which is usually included in proposals to provide essential air service. The application should also describe the service that would be provided, including the hub or hubs to be served and the number of flights that would be provided to each, whether the flights will make stops between the eligible point and the hub, and the type of aircraft to be used. If the basis for the applicant's challenge is the contention that it would provide better service than the incumbent, it should state how its services would represent an improvement over that of the incumbent.

Any person would be permitted to file an answer to the application. The deadline for filing answers would be 30 days after the application was filed. Answers filed by other carriers could take the form of bumping applications. These answers would be consolidated with the original bumping application and would have to include the same type of information required of that application. Answers filed by representatives of the eligible point would be expected to address the merits of the service pattern proposed by the applicant and to state whether they considered it to be a substantial improvement over the incumbent's service.

The answer of the incumbent may take either or both of two approaches. It may refute the claims made in the bumping application, and it may include a counterproposal. Allowing the incumbent to offer a counterproposal would accomplish several important objectives. It might lead to an equal or greater reduction in subsidy or improvement in service than was offered by the applicant. If so, the transition to a new carrier, with the resulting disruption of the community's air service market, would be avoided. Furthermore, it would seem to be unfair to the incumbent to forbid it to offer a counterproposal, especially if the bumping application were prompted by changed circumstances in the subsidized market. If a counterproposal were filed, the applicant would be given an opportunity to reply.

The Board proposes to handle bumping cases in much the same way as suspension/replacement cases. In these cases, the fitness and reliability of the bumping applicant, and any other carriers that file applications during the answer period, are investigated. Rate conferences are held with the applicants, and the incumbent carrier if it filed a counterproposal, to determine the just and reasonable compensation for serving the eligible point.

The fitness and reliability investigation involves on-site reviews of the carrier's financial records and operating procedures, as well as a review of the traffic reports and insurance filed with the Board. The Federal Aviation Administration is contacted to learn the carrier's safety record, and State agencies are contacted to determine whether the carrier has customer relations problems or any litigation pending against it.

At the rate conference, Board and carrier representatives negotiate such matters as the payout formula, the type of rate (fixed incentive, shared incentive) and cost, revenue, and traffic estimates. The purpose of this rate conference is to refine the details of the carrier's subsidy need statement.

After the investigations and reviews had been completed and the Board had received any additional information requested, the Board could proceed in several ways. A show-cause order could be issued proposing to select and subsidize the applicant for serving the eligible point. An order rejecting the application could be issued. The matter could be set for an oral evidentiary hearing before an Administrative Law Judge or an oral argument before the Board. Some combination of these procedures might also be employed. If the incumbent's rate term is close to expiration, the application might be consolidated with the proceeding to renegotiate a new rate.

Although the bumping provisions of the Act include the right to "notice and hearing if requested" by the incumbent, the Board does not view this as requiring an oral evidentiary hearing in most bumping cases. In the past, courts have held that a statute requires an oral evidentiary hearing only when it uses the language of section 554 of the Administrative Procedure Act (APA)—"adjudication required by statute to be determined on the record." *United States v. Allegheny-Ludlum Steel Corp.*, 406 U.S. 742 (1972), *Law Motor Freight v. C.A.B.*, 364 F2d. 139 (1st Cir. 1966), *cert. denied*, 387 U.S. 905 (1967). Section 419, however, uses the phrase "after notice and a hearing," with no reference to "on the record."

It may be argued that even in the absence of the APA language, the Board is obligated to hold an oral evidentiary hearing in bumping cases because of the important proprietary interest of the incumbent in continued subsidy payments. Courts have differed on the issue of when a full hearing is required and there is a paucity of legislative history in this case to serve as a guide. The Conference Report merely paraphrases the statute. Conf. Rep. No. 1779, 95th Cong., at 87 (1978). The Senate Report goes to somewhat greater length, but still leaves the crucial question unanswered. On the one hand, "the Committee cautions the Board to meticulously evaluate applications to determine what if any changes in service are in the public interest," but on the other hand states that "applications under these provisions will be treated expeditiously . . ." This seems to indicate that Congress meant to give the Board discretion to weigh the need for quick action against the benefits of oral hearings in deciding what procedures to follow.

The Supreme Court has addressed the problem in several cases. In *United States v. Florida East Coast Ry. Co.*, 410 U.S. 224 (1972), the Court stated, at 240, that the term "hearing" in a statute "does not necessarily embrace either the right to present evidence orally and to cross-examine opposing witnesses, or the right to present oral argument to the agencies' decisionmaker." In *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Court set forth a three-part test for determining when an oral evidentiary hearing is required. It directed agencies, at 335, to consider the private interest that will be affected by their action, the risk of an erroneous deprivation of such interest by the procedures they propose to use, and the fiscal and administrative burdens of these procedures. In *Vermont Yankee Nuclear Power Corp. v. National Resources Defense Council*, 435 U.S. 519 (1978), it held that except when there are constitutional constraints or extremely compelling circumstances, administrative agencies should be free to fashion their own rules of procedure. Other courts have considered whether material facts are in dispute, whether those facts are of decisional significance, and whether they are of the kind that can be resolved on paper. They have held a hearing to be unnecessary where there were no disputed factual issues in the case. *Citizens for Allegan County v. FPC*, 414 F.2d 1125 (D.C. Cir. 1969), *Railway Express Agency v. CAB*, 345 F.2d 445 (D.C. Cir.), *cert. denied*, 382 U.S. 879 (1965).

In light of the above, it is our tentative view that the hearing requirement of section 419 (a)(11) and (b)(8) would be satisfied in most cases by a "paper hearing," that is, a show-cause procedure. Only where material facts are in dispute might an oral evidentiary hearing be called for. Under the procedures proposed below, all objections, challenges, and counter-proposals would be made in written submissions to the Board. The incumbent carrier would have an adequate opportunity to protect its interest under these procedures. It could be heard both during the answer period and in response to the show-cause order. In most cases, any benefits of an oral evidentiary hearing would be outweighed by the administrative and fiscal burdens that would be placed on the Board and the other parties to the proceeding. Such a proceeding would also be time consuming and might even outlast the period of the subsidy rate that was the subject of the application.

The statutory standards for granting a bumping application differ, depending on whether the incumbent carrier is receiving its subsidy under section 406 or section 419 of the Act. To bump a 406 carrier, the applicant must show that it can provide better service with less subsidy. To bump a 419 carrier, the applicant need only show that it can provide either better service with the same subsidy or the same service with less subsidy.

Determining whether the applicant's service proposal is better than the service provided by the incumbent may in some cases be based on qualitative criteria. Reactions to different mixes of frequencies, stops, destinations, and aircraft will vary. The Board will consider and give great weight to the views of the community concerned in judging the service aspects of a bumping application. The service improvement proposed, however, must be substantial. Timing changes or other minor service improvements would not justify ousting the incumbent carrier.

The significance of the proposed decrease in subsidy can be judged more quantitatively. The Board is proposing here a standard of 50,000 dollars per year or 10 percent of the incumbent carrier's rate, whichever is greater. To bump an incumbent on the basis of a substantial decrease in subsidy, the applicant would have to propose a reduction in subsidy of at least that amount. Only a decrease of that amount would justify the cost of processing the bumping case and the disruption to the community involved in changing air carriers.

In addition to the service and subsidy criteria, section 419 also requires the Board to take into account the desirability of developing an integrated linear system of air transportation and the experience of the applicant in providing scheduled service in the vicinity of the eligible point. These are incorporated in proposed § 326.7(d). The Board is also proposing in § 326.7(d) additional decisional criteria for bumping cases similar to those used in carrier selection cases. These include the relative efficiency of the aircraft to be used, the relative financial strength of the competing carriers, and the time necessary for the applicant to begin service.

A common type of bumping application might be those authorized by sections 419(a)(11)(B)(i) and 419(b)(8)(A)(i). Under these provisions, an applicant may bump an incumbent if its proposal would result in "sustantial improvement in the air transportation being provided such eligible point with no increase in the amount of compensation then being paid." This raises the question whether a proposal to provide service above the level that the Board has determined to be essential may be used as a decisional factor in bumping cases. The Board believes there may be a legal impediment to doing so. If such a proposal is viewed as asking the Board to subsidize more than essential service, it would appear to bring the bumping provisions into conflict with section 419(a)(5) of the Act. That provision states that the "Board shall continue to pay compensation to any air carrier to provide essential air transportation * * *" Under this provision, the Board may pay only for the number of flights and seats that it determined to be essential for the eligible point involved.

This statutory inconsistency may be resolved by holding that substantial improvement in air transportation refers to the quality, rather than the quantity, of the air service being provided. Under this interpretation, sich factors as the size and type of aircraft to be used, which hub or hubs are to be served, the number of stops to be made between the eligible point and the designated hub, and other service-related advantages would be considered by the Board in deciding whether the applicant's service proposal represented a substantial improvement. The addition of flights would be considered only is it would not result in the provision of service above the essential level. It is possible that an increase in flights, when combined with the use of smaller aircraft, would result in a level of service that is a substantial

improvement yet remains within the eligible point's essential service seat guarantee. This resolution of the statutory inconsistency would prevent a carrier from using the bumping provisions to obtain a subsidy from the Board for providing more than the Board considers essential under section 419. It would not prevent the carrier from providing more than essential service on its own initiative and at its own financial risk.

On the other hand, it could be argued that there is no statutory inconsistency. Under this argument, the proposal to provide more than essential air service would merely be viewed as an opportunity for the public to receive more service for its subsidy dollar. The Board requests comments on this issue. Any such comments should address the notice (419(a)(3)) and service (419(a)(6)) obligations of a carrier that successfully bumps an incumbent by proposing more than essential air service.

If the applicant were successful in bumping the incumbent, it would then be required to notify the Board and the incumbent of the date it would begin service. The incumbent would be obligated to continue providing essential service to the eligible point, and would continue to receive its subsidy, until the new carrier began service. The incumbent would not be required to file the termination notice usually required by section 419 of the Act and 14 CFR Part 323 if it wished to terminate service on the date that the new carrier began service, or shortly thereafter. If the incumbent carrier sought to terminate service prior to the new carrier's commencement of operations, however, it would have to comply with these notice requirements and would be subject to the hold-in provision of section 419(a)(6). The incumbent would be entitled to continue to receive its subsidy for 45 days after the bumping application was granted, but could agree on another date with the applicant.

Since a final rule should be issued when the bumping provisions go into effect on January 1, 1983, we are allowing only 45 days for comment.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that this rule will not, if adopted, have a significant economic impact on a substantial number of small entities. The ability to bump an incumbent carrier is established by the Act and this rule would merely provide procedures for bumping cases. Moreover, it does not establish reporting or record-keeping requirements other than those needed to judge the merits of an applicant's case.

List of Subjects in 14 CFR Parts 323 and 326

Administrative practice and procedure, Air carriers, Essential air service, Grant programs-Transportation.

PART 323—TERMINATIONS, SUSPENSIONS, AND REDUCTIONS OF SERVICE

Accordingly, the Civil Aeronautics Board proposes to amend Chapter II of 14 CFR, as follows:

1. In Part 323, § 323.8 would be revised by moving the "and" at the end of paragraph (a) to the end of paragraph (b), changing the period at the end of paragraph (b) to a semicolon, and adding a new paragraph (c) so that it would read:

§ 323.8 Exemptions.

Carriers are exempted from the following provisions of the Act or this part:

(a) Section 401(j) of the Act to the extent that provision would otherwise require them to file a notice when terminating, suspending, or reducing service in foreign air transportation;

(b) Paragraphs (a)(1), (a)(3), and (a)(5) of § 323.3 to the extent that those provisions require them to file a notice when terminating or suspending the domestic leg of an international flight (fill-up service); and

(c) Sections 401(j) and 419 of the Act and all the provisions of this part to the extent that those provisions would otherwise require them to file a notice when terminating or suspending service at an eligible point at which they have been replaced under Part 326 of this chapter. This exemption shall apply only if the carrier terminates or suspends service on, or within 90 days after, the date that the new carrier begins service.

(Secs. 204, 401, 406, 407, 411, 419, and 1001, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 763, 766, 769, 788, 92 Stat. 1732; 49 U.S.C. 1324, 1371, 1376, 1377, 1381, 1389, 1481.)

2. A new Part 326 would be added, to read:

PART 326—PROCEDURES FOR BUMPING SUBSIDIZED AIR CARRIERS FROM ELIGIBLE POINTS

Sec.

326.1 Purpose.
326.2 Definitions.
326.3 Application to bump an incumbent carrier.
326.4 Answers and replies to bumping applications.
326.5 Service of applications and answers.
326.6 Board action.
326.7 Standards for decision.
326.8 Transition from the incumbent carrier to the applicant.
326.9 Conformity with Subpart A of Part 302.

Authority: Secs. 204, 401, 406, 407, 411, 419, and 1001, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 763, 766, 769, 788, 92 Stat. 1732; 49 U.S.C. 1324, 1371, 1376, 1377, 1381, 1389, 1481.

§ 326.1 Purpose.

The purpose of this part is to establish procedures for an air carrier applying under section 419 (a)(11) or (b)(8) of the Act to provide essential air transportation to an eligible point, where it would be displacing another carrier that is providing essential air transportation under a subsidy rate previously established by the Board under either section 406 or section 419 of the Act. This part applies even if the applicant is not applying for a subsidy for itself but is merely seeking to terminate the incumbent carrier's subsidy.

§ 326.2 Definitions.

As used in this part:

(a) "Applicant" means an air carrier that files a bumping application.

(b) "Bumping application" means an application by an air carrier to terminate the subsidy paid to an incumbent carrier for providing essential air transportation at an eligible point so that the carrier filing the application can receive a subsidy to provide essential air transportation to that point.

(c) "Eligible point" means—

(1) Any community in the United States, the District of Columbia, and the several territories and possessions of the United States to which any direct air carrier was authorized, under a certificate of public convenience and necessity issued by the Board under section 401 of the Act, to provide air transportation on October 24, 1978, whether or not such service was actually provided;

(2) Any point in the United States and its several territories and possessions that was deleted from a section 401 certificate between July 1, 1968 and October 24, 1978, that the Board designates as eligible under the criteria in Part 270 of this chapter; or

(3) Any other point in Alaska or Hawaii that the Board designates as an eligible point under Part 270 of this chapter.

(d) "Essential air transportation" means the level of air service that is guaranteed an eligible point by the Board under section 419 of the Act and the guidelines in Part 398 of this chapter.

(e) "Hub" means a point annually enplaning more than 0.05 percent of the total annual emplanements in the United

States or listed as such by the joint Civil Aeronautics Board—Department of Transportation publication "Airport Activity Statistics of Certificated Route Carriers."

(f) "Incumbent carrier" means the air carrier serving an eligible point with subsidy at the time a bumping application is filed.

§ 326.3 Application to bump an incumbent carrier.

(a) To replace an incumbent carrier at an eligible point and obtain a subsidy for providing air transportation to that point, an air carrier shall file a bumping application in the Board's Docket Section.

(b) If the incumbent carrier is receiving its subsidy under section 406 of the Act, the application may not be filed at any time after January 1, 1983.

(c) If the incumbent carrier is receiving its subsidy unde section 419 of the Act, the application may be filed until the incumbent carrier has been serving the eligible point for at least 2 years.

(d) The application shall include:

(1) The name and address of the carrier filing the application;

(2) The name of the incumbent carrier;

(3) The name of the eligible point involved;

(4) Fitness information, as follows:

(i) If the applicant has already been found by the Board to be fit, willing, and able to provide scheduled service, it shall cite the most recent order establishing that finding.

(ii) If the applicant has not yet been found by the Board to be fit, willing, and able to provide scheduled service, it shall include the fitness information required by Part 204 of this chapter to support such a finding. In making this showing, the applicant may incorporate by reference material submitted in a prior proceeding before the Board.

(5) If the applicant is seeking a subsidy for itself, the subsidy information required by § 204.6(c) of this chapter; and

(6) The service pattern proposed, including the hub or hubs to be served from the eligible point, the number of flights to be provided, whether the flights will be nonstop, and the type of aircraft to be employed. If the applicant is basing its application on improved service at the eligible point, it shall state how its proposed service represents an improvement over the incumbent carrier's service.

(7) The assurances required by §§ 379.4 and 382.21 of this chapter.

(e) All information supplied by an air carrier in its application is subject to verification by Board auditors.

§ 326.4 Answers and replies to bumping applications.

(a) Any person may file an answer to an application filed under this part.

(b) To be considered by the Board, an answer should be filed not later than 30 days after the filing of the application to which it responds.

(c) An answer by the incumbent carrier may either refute the fitness and reliability of the applicant to provide the essential air transportation, refute its ability to provide the service at the amount of compensation requested, deny that the applicant's proposed service represents a substantial improvement, or offer a counterproposal to that offered by the applicant. If the incumbent desires a hearing, it should request it at this time.

(d) An answer by representatives of the eligible point should state whether they consider the service proposed by the applicant to be a substantial improvement in service.

(e) Any other carrier may submit a bumping application during the answer period. Such an application should include the information required by § 326.3(d).

(f) Any person may submit a reply to a counterproposal filed under paragraph (c) of this section or to another application filed under paragraph (e) of this section within 15 days of the end of the answer period.

§ 326.5 Service of applications and answers.

(a) The application shall be served upon:

(1) The chief executive of the prinicpal city or other unit of local government at the eligible point. The principal city is the one named, or previously named, in the section 401 certificate by virtue of which the point qualifies as an eligible point. For points in Alaska or Hawaii that are named by the Board as eligible points without having been listed on a section 401 certificate, the principal city is the most populous municipality at the point.

(2) The State agency with jurisdiction over transportation by air in the State containing the eligible point. If there is no such State agency, then the application shall be served on the Governor of the State.

(3) The manager of, or other individual with direct supervision over and responsibility for, the airport at the eligible point.

(4) Each air carrier providing scheduled passenger service at the eligible point.

(5) The CAB Office of Congressional, Community, and Consumer Affairs Field Office for the region in which the eligible point is located.

(6) Any other person designated by the Board.

(b) Answers to applications and replies to answers shall be served on the persons listed in paragraph (a) of this section, on the applicant, and on the person that filed the answer to which the reply is directed.

§ 326.6 Board action.

(a) After an application is filed under this part and the answer and reply period has elapsed, a rate conference will be held with the applicant or applicants and with the incumbent carrier, if it has filed a counter proposal, to determine the reasonableness of the compensation requested. One or more of the following actions may also be taken:

(1) A conference may be held with the eligible point concerned to determine its view on the relative merits of the present and proposed service pattern.

(2) Additional information may be requested.

(3) The application may be consolidated with the incumbent carrier's rate renegotiation proceeding if the incumbent's rate term is close to expiration.

(b) After the Board completes its reviews and conferences, and obtains any necessary information, it will take one or more of the following actions:

(1) Issue an order to show cause proposing to grant the application;

(2) Deny the application if the applicant fails to meet the criteria set forth in § 326.7;

(3) Set the application for an oral evidentiary hearing under the following circumstances:

(i) There are material facts in dispute;

(ii) These facts are of decisional significance; and

(iii) The disputed facts are of the type that can be adequately resolved only in an oral evidentiary hearing.

(4) Set the application for oral argument before the Board.

§ 326.7 Standards for decision.

(a) The Board will not grant an application under this part unless:

(1) It finds, or previously found, that the applicant is fit, willing, and able to provide scheduled air transportation; and

(2) It finds that the applicant will provide the essential air transportation at the eligible point in a reliable manner; and

(3) If the incumbent carrier is receiving its subsidy under section 406 of the Act, the applicant can show that

its proposal will result in both of the following:

(i) A substatial improvement in the air service being provided to the eligible point; and

(ii) A substantial decrease in the amount of subsidy that will be required to provide air service to the eligible point.

(4) If the incumbent carrier is receiving its subsidy under section 419 of the Act, the applicant shows that its proposal will result in either of the following:

(i) A substantial improvement in the air service being provided the eligible point with no increase in subsidy; or

(ii) A substantial decrease in the amount of subsidy that will be required to provide essential air transportation at the eligible point.

(b) To be considered substantial, the proposed decrease in the amount of subsidy should be at least 50,000 dollars per year or 10 percent of the incumbent carrier's subsidy rate, whichever is greater.

(c) In deciding whether a proposed service pattern represents a substantial improvement in air service, the Board will consider the following factors:

(1) Which hub or hubs the applicant proposes to serve from the eligible point;

(2) The number of stops that the applicant will make between the designated hub and the eligible point;

(3) The size and type of aircraft, including whether that aircraft is pressurized, that the applicant intends to use at the eligible point, and

(4) The number of flights that the applicant proposes to provide at the eligible point, provided that the increased frequencies are combined with a change in aircraft so as not to result in the Board paying a subsidy for more than essential air transportation; and

(5) Service related advantages held by the applicant such as computerized reservation systems or joint fares.

(d) In addition to the factors described above, the Board, in evaluating an application, will consider the following:

(1) The desirability of developing an integrated linear system of air transportation whenever such a system most adequately meets the air transportation needs of the eligible point involved;

(2) The experience of the applicant in providing scheduled air service in the vicinity of the eligible point involved;

(3) The relative efficiency of the aircraft that the competing carriers use or propose to use;

(4) The relative financial strength of the competing carriers;

(5) The time necessary for the applicant to being providing the service it proposes;

(6) The performance of the incumbent carrier in serving the eligible point involved;

(7) The amount of time that the incumbent carrier was on the subsidy rate in question; and

(8) The effect of granting the bumping application on other points in the incumbent carrier's system.

(e) In evaluating the factors described above, the Board will give great weight to the views of representatives of the eligible point involved.

§ 326.8 Transition from the incumbent carrier to the applicant.

(a) If an applicant is successful in its bid to replace an incumbent carrier and receive a subsidy for serving the eligible point, it shall notify the Board and the incumbent carrier of the date that it is prepared to begin service at the eligible point. It shall allow the incumbent 45 days to close down its operation at the eligible point, unless another date is agreed on.

(b) The incumbent carrier shall continue service at the eligible point until the successful applicant begins service there.

(c) The Board will continue to pay the subsidy to the incumbent carrier for at least 45 days after it grants the bumping application, unless the two carriers agree to a different date for the transfer of service. The Board will continue to pay the subsidy to the incumbent carrier thereafter until the successful applicant begins service at the eligible point.

§ 326.9 Conformity with Subpart A of Part 302.

Except where they are inconsistent, the provisions of Subpart A of Part 302 of this chapter shall apply to proceedings under this part.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-23573 Filed 8-26-82; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-18987; File No. S7-654]

Securities Confirmations

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of proposed rules.

SUMMARY: The Securities and Exchange Commission is withdrawing a proposed rule and a proposed amendment to a rule that would have required disclosure on the customer's confirmation of the amount of any mark-up, mark-down, or similar remuneration received (1) by any broker or dealer effecting a "riskless" principal transaction in non-municipal debt security with a customer, and (2) by any broker, dealer, or municipal securities dealer effecting a "riskless" principal transaction in a municipal security with a customer.

The Commission is withdrawing the poposals because it has concluded that they would not achieve the purposes of the proposal at an acceptable cost and that there are alternative ways of achieving the same goal with fewer adverse side effects.

FOR FURTHER INFORMATION CONTACT: Susan Walters, Esq., Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 (202-272-7494).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the withdrawal of a proposed amendment to Rule 10b-10 (17 CFR 240.10b-10) under the Securities Exchange Act of 1934 (the "Act")[1] and the withdrawal of proposed Rule 15c2-12 (17 CFR 240.15c2-12) under the Act.[2] The proposed amendment to Rule 10b-10 would have made it unlawful for any broker or dealer (other than a market maker) trading as a principal for its own account to effect a transaction in a non-municipal debt security[3] with a customer unless the broker or dealer, at or before the completion of the transaction, gave or sent to the customer written notification disclosing the amount of any mark-up, mark-down, or similar remuneration recieved if, after having received an order to buy from the customer, he purchased the security from another person to offset a contemporaneous sale to the customer or, after having received an order to sell from such customer, he sold the security to another person to offset a contemporaneous purchase from the customer.[4] Proposed Rule 15c2-12 would

[1] 15 U.S.C. 78a *et seq.*

[2] *See* Securities Exchange Act Release No. 15220 (October 6, 1978), 43 FR 47538 (October 16, 1978).

[3] The proposed amendment would have broadened the application of paragraph (a)(5)(i) of Rule 10b-10 to include both equity and non-municipal debt securities by deleting the phrase "in a transaction in an equity security."

[4] Transactions effected in this manner have been generally referred to as "riskless" principal transactions.

have required comparable disclosure in the case of transactions of the same type in a municipal security effected by a broker, dealer, or municipal securities dealer.

The Commission received over two hundred comment letters on the proposals, the majority of which opposed their adoption. The commentators opposed to the proposals argued that, among other things, the proposals failed to take into account the substantial differences between the markets for debt and equity securities,[5] called for the disclosure of information that was irrelevant to customers,[6] and imposed an unreasonable and anti-competitive burden on small broker-dealers.[7]

The proposals were intended, among other things, to prevent or deter pricing abuses. The Commission strongly supports efforts by the Municipal Securities Rulemaking Board to focus greater attention on pricing practices [8] and other self-regulatory efforts to prevent excessive mark-ups. The Commission will also maintain close scrutiny to prevent excessive mark-ups and take enforcement action where appropriate.[9] The Commission is withdrawing the proposals because it has concluded that they would not achieve the purposes of the proposal at an acceptable cost and that there are alternative ways of achieving the same goal with fewer adverse side effects.

By the Commission.

Dated: August 20, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-23595 Filed 8-26-82; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Part 240

[Release No. 34-18988, File No. S7-942]

Securities Confirmations

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Securities and Exchange Commission is proposing to amend its rule that specifies the disclosures to be made on confirmations delivered to customers by broker-dealers in connection with transactions in securities. The amendments would eliminate unnecessary regulatory burdens by providing a limited exception from the rule for certain "account management plans" offered by broker-dealers. The proposed amendments also would require disclosures pertaining to yield and call features in transactions in debt securities in order to assure that investors receive important information in connection with their securities transactions.

DATE: Comments are due by November 1, 1982.

ADDRESSES: Persons wishing to submit written views should file three copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 6184, 450 Fifth Street, NW., Washington, D.C. 20549. All submissions should refer to file No. S7-942 and will be available for public inspection at the Commission's Public Reference Room, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Susan Walters, Esq., Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549 (202-272-7494).

SUPPLEMENTARY INFORMATION: The Commission today announced a proposal to amend its confirmation rule, Rule 10b-10 (17 CFR 240.10b-10) under the Securities Exchange Act of 1934 (the "Act").[1] The first proposed amendment to the rule would permit brokers or dealers to use monthly confirmation statements in lieu of immediate statements in confirming transactions for or with a customer in shares of money market funds, tax-exempt bond funds or U.S. government funds in connection with certain "account management plans." The second proposed amendment would make it unlawful for any broker or dealer to effect a transaction for or with a customer in any debt security, other than a U.S. Savings Bond or municipal security, unless the broker or dealer, at or before the completion of the transaction, gives or sends to the customer written notification of information pertaining to the yield and the call provisions for the security. The proposed amendments also would define the terms "account management plan" and "debt security."

Discussion

1. *Account Management Plans.* The Commission is proposing to amend Rule 10b-10 to incorporate a limited exception from the rule's confirmation delivery requirement. The exception would permit broker-dealers to use monthly statements in lieu of individual, immediate confirmations for transactions in shares of registered, open-end investment companies that invest solely in money market instruments, municipal securities or U.S. government securities, when the transactions are effected in conjunction with the operation of a securities account, credit or debit card, bank checking account, or check writing privilege linked to the investment company. The proposed amendment would permit specified transactions in "account management plans" to be confirmed by a monthly account statement. The term "account management plan" is proposed to be defined as a plan under which specified transactions are effected for the account of a customer of the broker or dealer in securities issued by certain open-end investment companies registered under the Investment Company Act of 1940 ("Fund Shares").[2] Purchases of Fund Shares could be confirmed on a monthly basis if they were made with funds drawn from a free credit balance generated by the receipt of the proceeds of a sale of securities, cash delivered to the account, or by interest or dividends or other similar funds received on the customer's behalf. Redemptions of Fund Shares could be confirmed on a monthly basis if the Fund Shares were redeemed to cover debit balances in a customer's account caused by the purchase of securities or by the exercise of a check, credit or debit card, or other similar withdrawal option provided by the plan.

The monthly account statement would be required to be delivered within five business days of the end of each monthly period and would be required to include the applicable information currently required in the quarterly confirmation provisions in paragraph (b) of Rule 10b-10.[3] This information would include purchases and sales of Fund Shares, fund dividends credited to or reinvested for the customer, the date of each transaction in Fund Shares, the total number of Fund Shares held by the customer, and any remuneration received or to be received by the broker

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[5] *E.g.*, letter from the Securities Industry Association, Corporate Bond Committee (Nov. 17, 1978); letter from the Public Securities Association (Jan. 15, 1979). All comment letters cited are contained in File No. S7-654.

[6] *E.g.*, letter from the Municipal Dealers Association, Inc. (Jan. 15, 1979); letter from the Municipal Securities Rulemaking Board (Jan. 8, 1979).

[7] *E.g.*, letter from Merrill Lynch, Pierce, Fenner & Smith, Inc. (Dec. 26, 1978); letter from Bateman Eichler, Hill Richards Inc. (Nov. 29, 1978); letter from Printon, Kane & Co. (Nov. 28, 1978).

[8] *See* MSRB, *Report on Pricing*, Sept. 26, 1981.

[9] *See, e.g.*, Securities Exchange Act Release No. 18628 (Apr. 9, 1982).

[1] 15 U.S.C. 78 *et seq.*

[2] 15 U.S.C. 80 *et. seq.*

[3] The amendment would not, of course, change the availability of other confirmation alternatives such as the use of quarterly statements now permitted by certain provisions of Rule 10b-10.

or dealer in connection with the plan. The proposal would amend paragraph (b)(1) of the rule to include account management plans in the list of plans eligible to be confirmed pursuant to paragraph (b)(2) and also would amend paragraph (b)(2) to make clear that qualifying transactions in account management plans must be confirmed on a monthly basis.

The proposed exception codifies exemptions that the Commission has granted on a case-by-case basis [4] to allow broker-dealers, in connection with account management plans, to dispense with individual confirmations for certain transactions in Fund Shares. The exemptions granted have drawn a distinction between pre-authorized ("automatic") transactions and individually-directed ("manual") transactions. Exemptions granted have permitted broker-dealers to provide customers with monthly account statements for "automatic" purchases of the Fund Shares with free credit balances generated by the sale of portfolio securities, the delivery of funds, or the receipt of dividend and interest income. The exemptions continued to require that "manual" purchases and redemptions made in response to direct, specific requests by customers be confirmed by individual, immediate confirmation. Similarly, a monthly account statement has been permitted to be used to confirm the "automatic" redemption of Fund Shares to satisfy debit balances created by securities purchases, withdrawals of cash by check, or credit or debit card purchases. These exemptions generally have not included "manual" redemptions and have required that manual redemptions made in response to direct, specific requests of customers be evidenced by individual, immediate confirmations.

The Commission, based upon the experience gained from reviewing these plans, is proposing to maintain the distinction between automatic and manual transactions in codifying the exception. Automatic transactions would continue to qualify for the exception from the immediate confirmation delivery requirement, and manual transactions would still be confirmed by immediate, individual confirmations. While the Commission does not believe that it would be appropriate to dispense with a standard confirmation for manual transactions, the amendment would relax the confirmation delivery requirements for certain preauthorized automatic transactions. The monthly statements delivered to participating customers would continue to disclose the same information as is required for individual confirmations.

Since the proposed exception from the immediate confirmation delivery requirements of Rule 10b–10 codify exemptions previously granted by the Commission, and since broker-dealers may wish to utilize the proposed exception, the staff will not recommend that the Commission take enforcement action under Rule 10b–10 if broker-dealers conform their customer confirmation delivery procedures for account management plans to the proposed amendments from and after the date of this release until the Commission takes final action on these proposals.

2. *Debt Security Yield and Call Disclosure.* The Commission has received suggestions that broker-dealers should be required to provide customers with information concerning the yield of debt securities purchased or sold by customers.[5] It has sometimes been asserted that the single most important piece of information about most transactions in debt securities is the yield that an investor may expect to realize on the investment.[6] The confirmation rule of the Municipal Securities Rulemaking Board (the "MSRB")[7] currently requires disclosure of yield information for transactions in municipal securities. The Commission believes that information on yield to maturity and yield to call[8] is sufficiently important to investors to warrant specific confirmation disclosure requirements. The Commission therefore is proposing to amend Rule 10b–10 to require disclosure of yield-related information on the confirmation of transactions in debt securities.

Definition of Debt Security. The proposed amendment to Rule 10b–10 would define the term "debt security," for only the purpose of the yield and call disclosure provisions proposed to be added to the rule, to mean "any security that is a bond, debenture, note, or any other similar instrument constituting a liability of the issuer (including any such security that is convertible into stock or a similar security) and fractional or participation interests in one or more of any of the foregoing." The definition would include, but would not be limited to, securities issued by the United States government, corporate debt securities, participation interests in pools of mortgage notes, and securities convertible from debt to equity interests. To the extent any of these securities also come within the definition of the term "equity security,"[9] the inclusion of these instruments in the definition of debt security would not exclude them from the definition of equity security as used in other provisions of Rule 10b–10. The proposed definition does not, however, include securities issued by registered investment companies. As noted above, Rule 10b–10 does not apply to transactions in municipal securities and U.S. Saving Bonds. Therefore, the proposed amendments also would not cover those securities.

Transaction Yield and Price. Debt securities often are quoted and traded on a yield basis rather than a dollar price.[10] The proposed amendment to Rule 10b–10 would require that the confirmation of a transaction effected on a yield basis disclose "the yield at which the transaction was effected, including percentage amount and characterization as yield to maturity or call * * * [and] the dollar price calculated from the yield * * *." When a transaction is effected exclusively on a

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[4] *See, e.g.*, letter to Thomas R. Smith, Jr. (on behalf of Merrill Lynch, Pierce, Fenner & Smith, Inc.) from the Commission (Oct. 17, 1977); letter to Newton B. Schott, Jr. (on behalf of Thomson McKinnon Securities, Inc.) from the Commission (May 24, 1979). In 1979 the Commission delegated to the staff the authority to grant exemptions from Rule 10b–10. Securities Exchange Act Release No. 16077 (Aug. 2, 1979), 44 FR 46793 (Aug. 9, 1979).

[5] *See, e.g.*, letter from the Corporate Bond Committee of the Securities Industry Association to Roger D. Blanc, Chief Counsel, Division of Market Regulation (July 2, 1979) ("SIA Letter"), contained in File No. S7–654. That SIA Committee made that suggestion in response to the Commission's earlier proposal that the "riskless" principal disclosure requirement in Rule 10b–10 be extended to cover all transactions in debt securities. *See* Securities Exchange Act Release No. 15220 (Oct. 6, 1978), 43 FR 47538 (Oct. 16, 1978).

[6] That observation was made, for example, by persons who commented upon the Commission's proposal to require disclosure of the amount of any mark-up or mark-down received in a "riskless" principal transaction in debt securities.

[7] MSRB rule G–15, MSRB Manual (CCH) ¶ 3571.

[8] Yield to maturity may be defined as a compound rate of return, based upon a debt security's interest rate, current price, and time remaining until maturity. Because debt securities often trade at prices above or below their par values, the calculation of yield to maturity includes a pro rata accumulation of the discount resulting from a purchase at a price below par or pro rata amortization of the premium resulting from a purchase at a price above par, as well as the annual interest income. Yield to call represents a similar calculation based upon the amortization of premium or accumulation of discount and the total interest income to the call date rather than the maturity date.

[9] The term "equity security" is defined in Section 3(a)(11), of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(11), and in Securities Exchange Act Rule 3all–1, 17 CFR 240.3all–1, thereunder. Each defines the term to include, among other things, "any security convertible, with or without consideration, into [an equity] security * * *."

[10] Not all debt securities are traded on a yield basis. For example, odd-lots, of exchange-traded bonds are traded on the basis of dollar price.

dollar price basis, the rule would require disclosure of the yield to maturity calculated from that dollar price. This yield information provides investors with an important basis for evaluating and comparing debt securities. Accordingly, the Commission believes that the specific transaction yield, as well as the dollar price, should be included in the confirmation received by the customer.

Yield figures, of course, relate to a specific date, such as the date of maturity or a date upon which the security might be redeemed or called by the issuer.[11] Accordingly, the proposed amendment to Rule 10b–10 also would require that the nature of the quoted yield (*e.g.*, yield to maturity or yield to first whole issue call) be described in the confirmation and, when a transaction was effected on a yield to call basis, that the call date and call price also be disclosed. The Commission believes that this information should be provided to customers to assure that more specific and complete information is made available concerning the yield that the customer can expect to realize and to make the disclosure comparable to the information the MSRB currently requires to be provided to investors in municipal securities.[12]

The proposed amendment to Rule 10b–10 would require that yield information be included on the confirmation of customer sales of debt securities, as well as on the confirmation of customer purchases.[13] In part because purchases from customers may be effected on the basis of a dollar price, rather than on a yield basis, the proposed amendment is written to require yield disclosure for transactions effected exclusively on a dollar basis, as well as those effected on a yield basis.[14]

Dual Yield Disclosure. The proposed amendment to Rule 10b–10 would require that the confirmation disclose, in the case of a transaction in a debt security effected on the basis of yield:

> If effected on a basis other than the yield to maturity and the yield to maturity is lower than the represented yield, the yield to maturity as well as the represented yield; provided however, that this subparagraph shall not apply to a transaction in a participation interest in notes secured by a first lien upon real estate, continuously subject to prepayment * * *.

The proposed amendment would require, for most debt securities,[15] the disclosure of only a single yield figure, the yield to maturity. But, if a transaction is effected on other than a yield to maturity basis, such as yield to first whole issue call, and the yield to maturity is lower than the represented yield, both the represented yield and the yield to maturity would be required to be disclosed. If a transaction is effected on a yield to maturity basis, only the yield to maturity would be required to be disclosed.

The Commission expects that the vast majority of transactions in debt securities will be effected at the lower of yield to maturity or yield to whole issue call, and accordingly only the yield at which the transaction was effected would need to be disclosed on the confirmation. The Commission also understands, however, that in some circumstances it might be appropriate to base a transaction in a debt security on a yield to call which is higher than the yield to maturity. The Commission believes that in those transactions it should, nevertheless, be made clear to the customer that he may, under some circumstances, realize a yield lower than the yield at which the transaction is effected. The dual disclosure provision also may discourage the potentially deceptive practice of quoting a specific yield figure for a debt security when an alternate, lower yield figure would more appropriately be quoted.[16]

When a broker-dealer effects a transaction in a debt security on the basis of yield to maturity, a comparison with yield to call might be desirable. It appears that such a comparison frequently would be difficult, however, because of the widespread and increasing use of complex early redemption provisions, such as part issue calls and sinking funds, that can make difficult the selection of an appropriate call date upon which to base the calculation.[17] Accordingly, the Commission has not proposed to require a comparison with yield to call when a transaction is effected on a yield to maturity basis.

The Commission is, however, proposing that a legend, trailer or other advisory notice be provided to indicate that the customer may obtain information on the call provisions applicable to his security. A proposed amendment to Rule 10b–10 would require that all confirmations of transactions in debt securities potentially subject to redemption in advance of maturity carry a statement to the effect that debt securities may be redeemed in whole or in part before maturity, that such a redemption could affect the yield represented, and that additional information is available upon request. This amendment would conform the disclosure required by Rule 10b–10 to the substantially similar provision in MSRB rule G–15(c)(iv).[18] Broker-dealers would be required to respond to investor inquiries pursuant to this provision within the time specified in subsection (c) of Rule 10b–10.

The Commission, in addition to the considerations discussed above, is concerned that some investors may not adequately understand the nature of call provisions and, indeed, that some investors may not be aware of them at all. The possibility exists, therefore, that investors will be surprised by the early redemption of investments in long-term debt securities.[19] Because the variety and number of call provisions may be too complex to include in a confirmation and because transactions usually are not effected on the basis of part issue calls or sinking fund redemptions, the Commission believes that a legend advising the customer that he may request information from his broker-dealer is a sensible approach to this problem.

With respect to these proposals, the Commission is particularly interested in learning more about current industry practice regarding the disclosure of yield and call information for debt

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[11] *See* note 8 *supra*.

[12] The Commission has approved an amendment to MSRB rule G–15 requiring similar disclosure for municipal securities. Order Approving Proposed Rule Change (concerning MSRB rules G–12 and G–15), (File No. SR–MSRB–80–1), Securities Exchange Act Release No. 16844 (May 27, 1980), 45 FR 41748 (June 20, 1980).

[13] The Commission has approved an amendment to MSRB rule G–15 requiring similar disclosure for municipal securities. Order Approving Proposed Rule Change (concerning MSRB rule G–15), (File No. SR–MSRB–79–6), Securities Exchange Act Release No. 16707 (Mar 28, 1980), 45 FR 23561 (Apr. 7, 1980).

[14] This provision also has the additional effect of requiring yield disclosure in the event of a debt security being sold to a customer on the basis of a dollar price.

[15] Participation interests in notes secured by a first lien upon real estate, continuously subject to prepayment, are proposed to be exempted from the dual yield disclosure aspect of the yield disclosure provision. This exception has been included because the Commission understands that securities such as mortgage securities and various forms of mortgage pools trade on one yield figure: the yield to a twelve year lump sum prepayment. The exception in this provision would permit confirmations of transactions in these securities to disclose the yield at which the transaction was effected (yield to twelve year lump sum prepayment) and omit the yield to maturity, which has less significance to investors in these securities.

[16] Such a situation might occur if a broker-dealer were to quote the deceptively high yield to call of a deep discount bond rather than the lower, but more significant, yield to maturity.

[17] *See, e.g.*, H. Kaufman, *The Anatomy of the Secondary Market in Corporate Bonds* (Salomon Brothers 1973) at 23–24, 31–32.

[18] Commentators also have suggested that the Commission adopt this requirement. *See, e.g.*, SIA Letter at 7.

[19] Investors have frequently written to the Commission that they were not adequately informed of the presence and significance of call provisions of debt securities.

transactions, other than municipal securities transactions. The Commission is interested in the extent to which broker-dealers already disclose yield and call information on confirmations. The Commission would like to know what additional costs the required disclosure of such information would impose on those broker-dealers not currently providing such information to investors. The Commission also is interested in receiving comments concerning the efficacy of the proposed disclosure of yield and call information as a means of better informing customers as to the investment features of debt securities which they purchase or sell and as a means of discouraging potentially deceptive practices related to such transactions.

Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an initial regulatory flexibility analysis in accordance with 5 U.S.C. § 603 regarding these proposed amendments to Rule 10b–10.

The analysis notes that the objective of the yield disclosure provisions is to assure that investors in debt securities receive important standard information on yield and early redemption provisions, and that the objective of the account management plan provision is to make the standardized exemption from confirmation delivery for these plans available to all broker-dealers without requiring separate, special applications. The analysis states that the yield disclosure provisions may require some new compliance procedures for preparing confirmations for debt securities transactions but that the impact of this requirement will be reduced by current compliance with MSRB rule G–15 and by each broker-dealer's ability to design its own compliance system commensurate with its volume of transactions in non-municipal debt securities. The analysis also states that the account management plan provision will not create any new compliance burden and may permit appreciable savings in preparing and sending confirmations.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Susan Walters, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 (202–272–7494).

Statutory Basis

The Securities and Exchange Commission hereby proposes to amend § 240.10b–10 in Chapter II, Title 17 of the Code of Federal Regulations, pursuant to its authority under the Act, and particularly Sections 3, 10, 11, 15, 17, and 23 thereof (15 U.S.C. §§ 78c, 78j, 78k, 78*o*, 78q, and 78w).

Lists of Subjects in 17 CFR Part 240

Reporting Requirements, Securities.

Text of Proposed Amendments

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

It is proposed to amend § 240.10b–10 in Chapter II, Title 17 of the Code of Federal Regulations by adding new paragraphs (a)(3), (a)(4), and (a)(5); by revising paragraphs (b)(1) and (b)(2); by adding new paragraphs (d)(4) and (d)(5); by revising the reference to paragraph (a)(4)(ii) in paragraph (a)(3) of the rule to read "paragraph (a)(7)(ii)"; by redesignating existing paragraphs (a)(3), (a)(4), and (a)(5) to be paragraphs (a)(6), (a)(7), and (a)(8), respectively; and by redesignating existing paragraphs (d)(4) and (d)(5) to be paragraphs (d)(6) and (d)(7), respectively, to read as follows:

§ 240.10b–10 Confirmation of transactions.

(a) * * *

(3) In the case of any transaction in a debt security potentially subject to early redemption, that debt securities may be redemmed in whole or in part before maturity, that such a redemption could affect the yield represented and that additional information is available upon request; and

(4) In the case of a transaction in a debt security effected exclusively on the basis of a dollar price:

(i) The dollar price at which the transaction was effected, and

(ii) The yield to maturity calculated from the dollar price; and

(5) In the case of a transaction in a debt security effected on the basis of yield:

(i) The yield at which the transaction was effected, including percentage amount and characterization as yield to maturity or call, and if effected at yield to call, the call date and call price,

(ii) The dollar price calculated from the yield at which the transaction was effected; and

(iii) If effected on a basis other than yield to maturity and the yield to maturity is lower than the represented yield, the yield to maturity as well as the represented yield; *Provided, however,* that this paragraph shall not apply to a transaction in a participation interest in notes secured by a first lien upon real estate, continuously subject to prepayment; and

* * * * *

(b) * * *

(1) Such transactions are effected pursuant to a periodic plan, an investment company plan or an account management plan; and

(2) Such broker or dealer gives or sends to such customer within five days after the end of each quarterly period, except in the case of an account management plan, where it shall be within five business days after the end of each monthly period, a written statement disclosing each purchase or sale, effected for or with, and each dividend or distribution credited to, or reinvested for, the account of such customer (pursuant to the plan) during the period; the date of each such transaction; the identity, number and price of any securities purchased or sold by such customer in each such transaction; the total number of shares of such securities in such customer's account; any remuneration received or to be received by the broker or dealer in connection therewith; and that any other information required by paragraph (a) will be furnished upon written request: *Provided, however,* that the quarterly written statement may be delivered to some other person designated by the customer for distribution to the customer; and

* * * * *

(d) * * *

(4) "Debt security" as it applies to paragraphs (a)(3), (a)(4), and (a)(5) only, means any security that is a bond, debenture, note, or any other similar instrument constituting a liability of the issuer (including any such security that is convertible into stock or a similar security) and fractional or participation interests in one or more of any of the foregoing: *Provided, however,* that securities issued by an investment company registered under the Investment Company Act of 1940 shall not be included in this definition; (5) "Account management plan" means any plan under which transactions are effected for the account of a customer of a broker or dealer, in securities issued by an open-end investment company that is registered under the Investment Company Act of 1940 and that invests solely in money market instruments, United States government securities or municipal securities and whereby the customer

(i) Purchases such specified securities, at the applicable public offering price, in such amounts and at such times as specified in the plan, with funds drawn from an account maintained by the customer (including the proceeds from the sale of securities, funds delivered by or for the customer, dividends, interest,

and other similar funds received on the customer's behalf); or

(ii) Redeems such specified securities, by the terms of the plan, at the applicable redemption price, in such amounts and at such times as necessary to satisfy debit balances created by the purchase of securities or by the exercise of a check, credit or debit card, or other similar withdrawal option provided by the plan, and which sets forth the commissions or any other charges to be paid by such customer to the broker-dealer in connection therewith (or the manner of calculating them) and the manner in which transactions under the plan will be confirmed;

* * * * *

Interested persons are invited to submit written presentations of views, data, and arguments concerning the proposed amendments to Rule 10b–10 under the Act and the issues discussed above. Persons wishing to make such submissions should file three copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 6184, 450 Fifth Street, N.W., Washington, D.C. 20549, not later than November 1, 1982. All submissions should refer to File No. S7–942, and will be available for public inspection at the Commission's Public Reference Room, Washington, D.C. 20549.

By the Commission.

George A. Fitzsimmons,

Secretary.

August 20, 1982.

[FR Doc. 82–23577 Filed 8–26–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 123

Foreign Locomotives and Railroad Equipment

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: The proposal would amend the Customs Regulations to provide that:

1. Foreign locomotives or other foreign railroad equipment in use on a continuous route crossing one international boundary into the United States, shall be admitted without formal entry or the payment of duty to proceed to the end of the run and depart for another foreign country;

2. Foreign railroad equipment other than locomotives may be used in such trains or for such local traffic as is reasonably incidental to its economical and prompt department for a foreign country; and

3. Empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty if the passengers or goods to be loaded are to be transported to or through any foreign country.

A conforming amendment to the regulations relating to foreign-based truck trailers also would be made.

This action is proposed to remove a serious hindrance to strictly international traffic, while retaining the prohibition against diversions of foreign locomotives and railroad equipment to unpermitted point-to-point local traffic.

The purpose of the proposal is to allow a three country movement (Canada-U.S.-Mexico, or reverse) of foreign locomotives and railroad equipment in international traffic, and thus not subject those locomotives or that equipment to formal entry or duty.

DATES: Comments must be received on or before October 26, 1982.

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: John Mathis, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5706).

SUPPLEMENTARY INFORMATION:

Background

Section 322(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1322(a)), provides that vehicles and other instruments of international traffic, of any class specified by the Secretary of the Treasury, shall be granted "the customary exceptions from the applications of the customs laws" to the extent of, and subject to, the terms and conditions prescribed in the regulations or instructions of the Secretary.

The legislative history of 19 U.S.C. 1322(a) indicates that the customary exceptions to the customs laws are based on those described in the document *United States Import Duties* (1952). By a memorandum dated February 4, 1969, the Commissioner of Customs interpreted that document and stated that the customary exceptions to the customs laws include those of entry and the payment of duty for foreign railroad equipment and trucks entering the United States in international traffic. The Commission also explained that under Customs interpretation of the legislative history of 19 U.S.C. 1322(a), those customary exceptions are not fixed and may be enlarged upon from time to time.

Section 123.12(a), Customs Regulations (19 CFR 123.12(a)), presently provides foreign locomotives or other foreign railroad equipment in use on a continuous route crossing an international boundary into the United States, shall be admitted without formal entry or the payment of duty to proceed to the end of the run and return to the country in which the run began in certain specified situations. Section 123.12(a)(2) further provides that foreign railroad equipment other than locomotives may be used on the outward (*i.e.*, return) trip *only* in connection with trains crossing the boundary, or for such local traffic as is reasonably incidental to the economical and prompt return of the equipment to the country from which it entered the United States.

In addition, § 123.12(b), Customs Regulations (19 CFR 123.12(b)), now provides that empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty *only* if the passengers or goods to be loaded are to be transported directly to or through the country from which the equipment entered the United States.

Research indicates that the underlying purpose of § 123.12 (a) and (b), and their antecedents, was to prohibit wholesale diversions to point-to-point local traffic of foreign locomotives and railroad equipment moving through the United States in international traffic. Those movements in international traffic historically have been two country movements, principally between Canada and the United States. Indeed, the restrictions contained in § 123.12 (a) and (b) were reinforced by early rulings that permit duty-free treatment of foreign railroad cars engaged in international traffic between the United States and either Canada or Mexico. (See Treasury Decisions 347, 648, 36513, 36581, and 47307). Section 123.12 (a) and (b), as presently worded, thus prohibit a continuous movement of passengers and merchandise destined for a foreign place, along the direct route of the train, if the railroad cars do not proceed to or through the country from which the cars entered the United States. For example, empty Canadian railroad cars in transit through the United States to Mexico would not be permitted to load and transport merchandise from Denver, Colorado, to Mexico (because Canada, not Mexico, was the country from which the cars entered the United States). That unfortunate result occurs because the

administrative precedent on which the current regulation is based simply did not contemplate a continuous movement of a train in international traffic from Canada through the United States to Mexico (or *vice versa*), lading merchandise for exportation *en route*.

However, in a ruling dated October 20, 1978 (BOR–7–03–R:CD:C 103513), Customs determined that the use of empty foreign railroad cars, laden in the United States with export cargo, in a continuous movement across the United States between Canada and Mexico, is international traffic. As Customs believes that a similar three country movement of foreign locomotives and other railroad equipment also is international traffic, those movements, therefore, constitute a circumstance which invites a "customary exception" to the customs laws, *i.e.*, freedom from formal entry and payment of duty, as previously described above.

The wording of § 123.12 was designed to prevent only diversions to unpermitted point-to-point local traffic and not to hinder any stricIty international traffic. Accordingly, to give effect to the 1978 ruling, and to eliminate the dichotomy between the strict language of the regulations and current administrative practice, § 123.12 (a) and (b) should be amended.

The proposed amendment to § 123.12(a) would provide that foreign locomotives or other foreign railroad equipment in use on a continuous route crossing one international boundary into the United States (*e.g.*, Canada) shall be admitted without formal entry or the payment of duty to proceed to the end of the run and depart for another foreign country (*e.g.*, Mexico). Section 123.12(a)(2) also would be amended to provide that foreign railroad equipment other than locomotives may be used on an outward trip in such trains or for such local traffic as is reasonably incidental to its economical and prompt departure for a (any) foreign country. The "outward" trip, then, would no longer refer exclusively to a return trip to the country in which the railroad equipment began its run. The equipment might return, or it might proceed to another foreign country.

The proposed amendment to § 123.12(b) would provide that empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty if the passengers or goods to be loaded are to be transported directly to or through any foreign country.

A conforming amendment also would be made to § 123.14(c)(2), Customs Regulations (19 CFR 123.14(c)(2)), to provide that a foreign-based truck trailer may carry merchandise between points in the United States on its departure for a foreign country under the same conditions as are prescribed for "other foreign railroad equipment" in proposed § 123.12(a)(2).

Authority

The authority for the proposed amendments is R.S. 251, as amended, section 14, 67 Stat. 516, as amended, section 624, 46 Stat. 759, 77A Stat. 14; and General Headnote 11, Tariff Schedules of the United States (19 U.S.C. 66, 1202, 1322(a), 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), from 9:00 a.m. to 4:30 p.m. on normal business days, at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

E.O. 12291 and Regulatory Flexibility Act

It has been determined that the proposed amendment is not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis is required.

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is hereby certified that the regulations set forth in this document, if promulgated, will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 123

Canada, Customs duties and inspection, Exports, Freight, Imports, Mexico, Motor carriers, Railroads.

Proposed Amendments

It is proposed to amend Part 123, Customs Regulations (19 CFR Part 123), as follows:

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. Section 123.12(a) introductory text would be revised to read as follows:

§ 123.12 Entry of foreign locomotives and equipment in international traffic.

(a) *Use on a continuous route.* Foreign locomotives or other foreign railroad equipment in use on continuous route crossing the boundary into the United States shall be admitted without formal entry or the payment of duty to proceed to the end of the run and depart for a foreign country, in accordance with the following:

* * * * *

2. Section 123.12(a)(2) would be revised to read as follows:

§ 123.12 Entry of foreign locomotives and equipment in international traffic.

(a) *Use on a continuous route.* * * *

(2) *On outward trip.* Foreign locomotives may be used on the outward trip only in connection with through trains crossing the boundary, including switching to make up such trains. Other foreign railroad equipment may be used in such trains or for such local traffic as is reasonably incidental to its economical and prompt departure for a foreign country.

* * * * *

3. Section 123.12(b) would be revised to read as follows:

§ 123.12 Entry of foreign locomotives and equipment in international traffic.

* * * * *

(b) *Admission of empty equipment.* Empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty only if the passengers or goods to be loaded are to be transported directly to or through a foreign country.

* * * * *

4. Section 123.14(c)(2) would be revised to read as follows:

§ 123.14 Entry of foreign-based trucks, buses, and taxicabs in international traffic.

* * * * *

(c) *Use in local traffic.* * * *

(2) A foreign-based truck trailer may carry merchandise between points in the United States on its departure for a foreign country under the same conditions as are prescribed for "other

foreign railroad equipment" in § 123.12(a)(2).

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: August 16, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 82-23600 Filed 8-26-82; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 134

Proposed Customs Regulations Amendment Relating to Country of Origin Marking

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations by eliminating the requirement that before granting relief from the payment of liquidated damages incurred for failure to (a) properly mark imported articles (or their containers) with the country of origin, or (b) redeliver all released articles to Customs custody for marking, exportation, or destruction, the district director must be satisfied that the importer was not guilty of negligence in permitting the illegally marked items to be distributed. If adopted, this change would give district directors the same discretion in handling petitions for relief from liquidated damages resulting from improperly marked merchandise as they have in handling petitions relating to relief from liquidated damages incurred for other types of violations.

DATE: Comments must be received on or before October 26, 1982.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Joseph Priddy, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5746).

SUPPLEMENTARY INFORMATION:

Background

Under section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), every article of foreign origin (or its container) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the article or container will permit, in such manner as to indicate to an ultimate purchaser, the English name of the country of origin of the article. Section 304(c) provides that any articles not marked as required, shall be subject to a duty of 10 percent ad valorem, in addition to any other duty imposed by law and whether or not the article is exempt from the payment of ordinary Customs duties; unless the article is exported, destroyed, or marked under Customs supervision. These marking duties cannot be remitted, wholly or in part.

In addition to the requirement for marking duties under section 304(c) for a country of origin marking violation, civil penalties may be incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), for importing merchandise by means of false documents; and criminal sanctions may be assessed under 18 U.S.C. 1001 for presenting false and misrepresented documents to the Government in connection with an entry. Further, if merchandise released from Customs custody under a bond is found not to be legally marked, liquidated damages also may be assessed for breach of the bond conditions.

In some instances, the total amount of liabilities which may be assessed for articles found not legally marked can far exceed the dutiable value of the imported merchandise.

Part 134, Customs Regulations (19 CFR Part 134), sets forth the country of origin marking requirements and exceptions of 19 U.S.C. 1304, as well as the consequences and procedures to be followed if imported articles are not legally marked.

Under § 134.51(a), Customs Regulation (19 CFR 134.51(a)), if merchandise is found upon examination not to be legally marked, the district director shall notify the importer to arrange with the district director's office to mark properly the articles or containers, or to return all released articles to Customs custody for marking, exportation, or destruction. If the importer does not properly mark or redeliver all merchandise previously released to him, as provided in § 134.54(a), the district director shall demand payment of iquidated damages incurred under the importers' bond in an amount equal to the entered value of the articles not properly marked or redelivered, plus any estimated duty determined at the time of entry. Section 134.54(b) states that a petition for relief from the payment of liquidated damages may be filed with the district director in accordance with Part 172, Customs Regulations (19 CFR Part 172). However, § 134.54(c) provides that any relief from the payment of full liquidated damages incurred will be contingent upon the deposit of the marking duties required by 19 U.S.C. 1304(c). Section 134.54(c) further provides that the district director may grant relief from the payment of full liquidated damages *only* if he is satisfied that the importer: (1) was not guilty of negligence or bad faith in permitting the illegally marked articles to be distributed; (2) has been diligent in attempting to secure compliance with the marking requirements; and (3) has attempted by all reasonable means to effect redelivery of the articles to Customs custody.

Under the provisions of § 172.21, Customs Regulations (19 CFR 172.21), the district director may cancel *any* claim for liquidated damages incurred under such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate when the claim is $50,000 of less. Guidelines for the cancellation of bond charges are set out in Appendix AA, Part 6.11, of the Customs Fines, Penalties and Forfeiture Handbook (HB 4400, March 1979 Revision).

These guidelines pertain to situations involving negligent, but unintentional failures to redeliver merchandise. These guidelines, which are in line with present Customs policy regarding the remission and mitigation of assessed liabilities, are not rigid rules. If circumstances indicate, the district director may deviate from them.

The provisions of § 134.54(c) generally conflict with Part 172, in that they are contrary to the discretionary provisions in Part 172, and they also contradict the guidelines set out in the Customs Fines, Penalties and Forfeitures Handbook. Further, the requirements in § 134.54(c) work a hardship on petitioners where the violation is caused by ordinary negligence or where the violation resulted from an unintentional mistake. Accordingly, to afford district directors the same discretion in handling petitions for relief from liquidated damages resulting from improperly marked merchandise as they have in handling petitions filed under the provisions of Part 172 relating to relief from liquidated damages incurred for other types of violations, it is proposed to amend § 134.54(c) by deleting the requirement that the district director be satisfied that the importer was not guilty of negligence in permitting the illegally marked items to be distributed.

List of Subjects in 19 CFR Part 134

Customs duties and inspections, Labeling, Packaging and containers.

Proposed Amendment to the Regulation

It is proposed to amend Part 134, Customs Regulations (19 CFR Part 134), in the following manner:

PART 134—COUNTRY OF ORIGIN MARKING

Section 134.54(c), Customs Regulations (19 CFR 134.54(c)), would be revised to read as follows:

§ 134.54 [Amended]

* * * * *

(c) *Relief from full liquidated damages.* Any relief from the payment of the full liquidated damages incurred will be contingent upon the deposit of the marking duty required by section 304(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1304(c)), and the satisfaction of the district director that the importer was not guilty of bad faith in permitting the illegally marked articles to be distributed, has been diligent in attempting to secure compliance with the marking requirements, and has attempted by all reasonable means to effect redelivery of the merchandise.

Authority

The amendment is proposed under the authority of R.S. 251, as amended, sections 304, 624, 46 Stat. 687, as amended, 759, 77A Stat. 14; (5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Headnote 11) 1304, 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Executive Order 12291

Because this document will not result in a regulation which would be a "major" rule as defined by section 1(b) of E.O. 12291, a regulatory impact analysis and review as prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this document because the proposed amendment will not have a significant economic impact on a substantial number of small entities. In addition, the proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, the Secretary of the Treasury certifies under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the proposed amendment will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: August 13, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 82-23597 Filed 8-26-82; 8:45 am]
BILLING CODE 4820-02-M

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19 CFR Part 146

Proposed Customs Regulations Amendments Relating to the Transfer of Merchandise From a Foreign-Trade Zone to a Customs Bonded Warehouse

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to permit the transfer of zone-restricted merchandise from a foreign-trade zone to a customs bonded warehouse pending exportation, without obtaining prior approval from the Foreign-Trade Zones Board. Elimination of this unnecessary requirement would expedite the transfer process.

DATE: Written comments must be received on or before October 26, 1982.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissoner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Legal Aspects: William D. Lawlor, Carriers, Drawback and Bonds Division (202-566-5856); Operationl Aspects: John R. Holl, Cargo Processing Division (202-566-5354); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Foreign-trade zones (zones) are areas within the United States (but outside of the "Customs territory" of the United States, as defined in section 146.1, Customs Regulations (19 CFR 146.1)), where foreign or domestic merchandise may be brought for manipulation, manufacture, assembly, or other processing or for storage or exhibition, provided that these operatins are not otherwise prohibited by law. Foreign merchandise may be brought into a zone without being subject to the usual Customs entry procedures and payment of duty. Foreign or domestic merchandise may be exported or entered into the Customs territory from a foreign-trade zone.

Zones are established under the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u), and the general regulations and rules of procedure of the Foreign-Trade Zones Board (the Board) (15 CFR Part 400.) Part 146, Customs Regulations (19 CFR Part 146), governs the admission of merchandise into a zone; the manipulation, manufacture, or exhibition in a zone; the exportation of merchandise from a zone; and the transfer of merchandise from a zone into the Customs territory.

Articles taken into a zone from the Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage are given "zone-restricted" status upon proper application. Upon receiving this status, the merchandise is considered exported and may be returned to the Customs territory for domestic consumption only after the Board has determined that the tranfer is in the public interest.

Because obtaining Board approval may be a time-consuming process and may result in lost sales to merchants who wish to transfer zone-restricted merchandise to a Customs bonded warehouse pending exportation, the question has arisen whether zone-restricted merchandise may be transferred to a Customs bonded warehouse pending exportation, without Board approval.

While the statute prohibits the return of merchandise to Customs territory from a zone for domestic consumption without Board approval, it does not prohibit the return of merchandise to Customs territory for warehousing prior to exportation. It is noted that section 557, Tariff Act of 1930, as amended (19 U.S.C 1557), provides, in part, that the total period of time that merchandise

may remain in a bonded warehouse shall not exceed five years from the date of importation. Accordingly, in order to relieve the trading community of the time-consuming transfer application process, Customs has determined that section 146.47, Customs Regulations (19 CFR 146.47), should be amended to permit the transfer of zone-restricted merchandise to a Customs bonded warehouse pending exportation, without prior approval of the Board.

List of Subjects in 19 CFR Part 146

Exports, Foreign-trade zones.

Proposed Regulations Amendments

It is proposed to amend Part 146, Customs Regulations (19 CFR Part 146), in the following manner:

PART 146—FOREIGN-TRADE ZONES

1. It is proposed to amend § 146.47 by revising paragraph (a) to read as follows:

§ 146.47 Transfer of zone-restricted merchandise into Customs territory.

(a) *Types of entry.* If the return of zone-restricted merchandise to Customs territory for domestic consumption has been ruled by the Board to be in the public interest, it may be entered for consumption, for warehousing, or for immediate transportation without appraisement, unless the Board has specified which of these forms of entry shall be made. Otherwise, zone-restricted merchandise may be returned to Customs territory only for entry for exportation, for Customs bonded warehousing at the same or a different port prior to exportation, for entry for transportation and exportation, for destruction (except destruction of distilled spirits, wines, and fermented malt liquors), for transfer from one zone to another, or for delivery to a qualified vessel or aircraft or as ground equipment of a qualified aircraft under section 309 or 317 of the Tariff Act of 1930, as amended.

* * * * *

2. It is proposed to further amend § 146.47 by adding a new paragraph (e)(4) to read as follows:

* * * * *

(e) * * *

(4) Zone-restricted merchandise may be transferred from a foreign-trade zone to a Customs bonded warehouse at the same or a different port for storage pending exportation. The warehouse entry form, Customs Form 7502, and Customs Form 215 shall be endorsed by the district director to show that the merchandise cannot be withdrawn from the warehouse for consumption. In the case of zone-restricted merchandise transported in bond to another port for warehousing and exportation, Customs Form 7512 shall be endorsed by the district director to show that the merchandise is foreign-trade zone merchandise which shall be entered for warehouse and cannot be withdrawn therefrom for consumption.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), or regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

These amendments are proposed under the authority of R.S. 251, as amended; section 624, 46 Stat. 759; 48 Stat. 998, *et seq.*; 77A Stat. 14 (19 U.S.C. 66, 81a–81u, 1202 (General Headnote 11), 1624).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this document because the proposed amendments will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the proposed amendments, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Because this document will not result in a regulation which will be a "major rule" as defined in section 1(b) of E.O. 12291, a regulatory impact analysis as prescribed by section 3 of the E.O. is not required.

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Approved: August 5, 1982.

William von Raab,

Commissioner of Customs.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 82-23599 Filed 8-26-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 77N-0132]

GRAS Status of Calcium Oxide and Calcium Hydroxide

Correction

In FR Doc. 82-17046 appearing on page 27818 of the issue of Friday, June 25, 1982, make the following corrections.

On page 27820, third column, seventh line from the bottom, "0.75" should read "0.075".

On page 27821, second column, eleventh line of paragraph (d), "§ 170.3(n)(1)" should read "§ 170.3(n)(3)".

BILLING CODE 1505-01-M

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 81N-0380]

Vitamin B_{12}; 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 vitamin B_{12} 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. The proposal would take no action on the listing of this ingredient as a GRAS substance for use in dietary supplements.

DATE: Comments by October 26, 1982.

ADDRESS: 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: Leonard C. Gosule, Bureau of Foods

(HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–9463.

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 vitamin B_{12} 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 for use as a nutrient in conventional foods [1] and infant formulas.

The GRAS status of the use of vitamin B_{12} in dietary supplements (i.e., over-the-counter vitamin preparations in forms such as capsules, tablets, liquids, wafers, etc.) is not affected by this proposal. The agency did not request consumer exposure data on dietary supplement uses when it initiated this review. Without exposure data, the agency cannot evaluate the safety of using this ingredient in dietary supplements. The use of this ingredient in dietary supplements will continue to be permissible under Subpart F of Part 182 (21 CFR Part 182).

Cyanocobalamin ($C_{63}H_{88}CoN_{14}O_{14}P$, CAS Reg. No. 68–19–9), formally identified as 5,6-dimethylbenzimidazolyl cyanocobamide but more commonly known as vitamin B_{12}, exists as hygroscopic dark red crystals or as an amorphous red powder that may absorb about 12 percent water. The hydrated crystals are air-stable, but they darken in the temperature range of 210° to 220° C. They do not melt, however, at temperatures up to 300° C. Cyanocobalamin crystals are odorless and tasteless. The crystals are sparingly soluble in water, soluble in alcohol, and insoluble in acetone, chloroform, and ether. The vitamin B_{12} form found naturally in the liver contains the 5′-deoxyadenosyl group linked, although weakly, to the cobalt atom. During the isolation process, the 5′-deoxyadenosyl group is replaced by cyanide which yields a more stable form of vitamin B_{12}.

Because there are various forms of vitamin B_{12}, and the terminology for these forms can be confusing, the terms noted below are identified in accordance with the nomenclature recommendations of the International Union of Pure and Applied Chemistry. Cyanocobalamin is an accepted (semisystematic) name of vitamin B_{12}. The term "vitamin B_{12}" used without qualification refers exclusively to cyanocobalamin, and is the only ingredient which is being proposed for GRAS affirmation in this document. The term "cobalamin" refers to vitamin B_{12} without the coordinated cyanide group, while the term "coenzyme vitamin B_{12}" refers only to 5′-deoxyadenosyl cobalamin. The term "vitamin B_{12} coenzyme," on the other hand, refers to any form of vitamin B_{12} with coenzyme activity, including coenzyme vitamin B_{12} and the hydroxy and methyl derivatives, hydroxocobalamin and methylcobalamin.

The predominant forms of vitamin B_{12} in animal tissues are protein-bound coenzyme vitamin B_{12} and methylcobalamin.

Vitamin B_{12} can be synthesized by micro-organisms, and its presence in higher plants and animals is usually ascribed to these sources. Vitamin B_{12} is usually produced from cultures of *Streptomyces griseus.* In man, vitamin B_{12} is synthesized by intestinal micro-organisms. The richest dietary sources of vitamin B_{12} are egg yolks, clams, oysters, and animal organs such as liver, kidney, brain, and heart. Muscle meats, dairy products, fish, shrimp, and lobster are intermediate sources, while vegetables, cereals, and egg whites are poor sources.

Vitamin B_{12} is an essentiual dietary component that is necessary for growth and prevention of megaloblastic anemia. Absorption of vitamin B_{12} through the intestinal wall is dependent on the presence of a substance known as the intrinsic factor. Vitamin B_{12} is required for DNA synthesis and cell replication by all mammalian species. The metabolic generation of methionine from homocysteine occurs when coenzyme vitamin B_{12} catalyzes the methyl group transfer. Vitamin B_{12} is intimately involved in both fat and carbohydrate metabolism, and it also functions as a cofactor in the metabolism of glutamate and lysine. Additionally, the formation of methane, the synthesis of acetate, and the dehydrogenation of diols and triols require vitamin B_{12}.

Vitamin B_{12} was listed as a GRAS nutrient in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, it was listed as a GRAS nutrient/dietary supplement in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). However, under a regulation published in the **Federal Register** of September 5, 1980 (45 FR 58837), the nutrient/dietary supplement category has been divided into separate listings for GRAS dietary supplements and for GRAS nutrients. Therefore, vitamin B_{12} currently is listed as GRAS in § 182.5945 (21 CFR 182.5945) for use in dietary supplements and in § 182.8945 (21 CFR 182.8945) for use in food as a nutrient. Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) lists vitamin B_{12} as a required nutrient in infant formula, subject to level restrictions. FDA is reviewing all nutrient levels in infant formulas under a contract with the American Academy of Pediatrics. Any necessary modifications in the nutrient levels of vitamin B_{12} in infant formula will be proposed by a separate rulemaking under section 412(a)(2) of the act. Vitamin B_{12} also may be used to fortify foods as described in Part 104 (21 CFR Part 104).

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufactures to determine the specific foods in which vitamin B_{12} was used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to this substance. FDA estimates from the NAS/NRC survey that the total amount of this ingredient used by the U.S. food industry in 1970 was 16,900 pounds, which is a fourteenfold increase over the amount used in 1960 (NAS/NRC survey). However, the reported poundage may not adequately reflect the consumption of vitamin B_{12} used a dietary supplement. Although individuals' daily intakes of vitamin B_{12} may vary over the range of 1 to 100 micrograms, the Select Committee on GRAS Substances (the Select Committee) estimates that the (hypothetical) average diet in the United States supplies 5 to 15 micrograms per day.[2]

Vitamin B_{12} 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) behavorial effects, (12) detection, and (13) processing. A total of 3,106 abstracts on vitamin B_{12} was reviewed, and 351 particularly pertinent

[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

[2] "Evaluation of the Health Aspects of Vitamin B_{12} as a Food Ingredient," Life Sciences Research Office, Federation of American Societies for Experimental Biology, p. 6, 1978.

reports 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, 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 vitamin B_{12}.[3] In the Select Committee's opinion:

> Vitamin B_{12} has shown no toxicity to animals at several thousand times their nutritional requirements. In man, pernicious anemia patients have received daily doses for years 10 to 20 times that of the highest estimate of average daily consumption. The only reaction to vitamin B_{12} so far demonstrated in man is the development of sensitivity that can become manifest as allergy or anaphylaxis after parenteral administration of relatively high doses.
>
> Vitamin B_{12} absorption is specific and limited, so that only a very small proportion of vitamin B_{12} given orally becomes physiologically available and active. The body stores are depleted very slowly because of enterohepatic recirculation.
>
> The addition of vitamin B_{12} to food, in amounts far in excess of need or of absorbability, appears to be without hazard.[4]

The Select Committee concludes that no evidence in the available information on vitamin B_{12} demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.[5]

FDA has undertaken its own evaluation of all available information, insofar as vitamin B_{12} is used as a nutrient in conventional foods, 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 vitamin B_{12} be affirmed as GRAS when it is used as a nutrient in conventional foods. However, because the NAS/NRC survey did not specifically request data on dietary supplement use, FDA does not have adequate data upon which to judge the exposure from the use of vitamin B_{12} as a dietary supplement. Without such exposure data, the agency cannot evaluate the safety of its use in dietary supplements and therefore can take no action on the GRAS status of vitamin B_{12} for this use. Therefore, FDA is taking no action on the listing of vitamin B_{12} in § 182.5945 for use as a dietary supplement.

Additionally, FDA is proposing not to include in the GRAS affirmation regulation for vitamin B_{12} 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 vitamin B_{12} will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of vitamin B_{12} 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 this substance is based on the evaluation of currently known uses, the proposed regulation sets forth the technical effect 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 CRFR 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 vitamin B_{12} 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 [6]
Vitamin B_{12} (scientific literature review).	PB-241-966/AS and PB-275-755/AS.	A14 and A02	$24.00 and 6.00
Vitamin B_{12} (Select Committee report).	PB-289-922/AS	A03	7.50

[6] Price subject to change.

This proposed action does not affect the current use of vitamin B_{12} 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 § 184.1945 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including both the technical effect 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:

[3] *Ibid.*, pp. 10–16. 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.

[4] *Ibid.*, p. 17.

[5] *Ibid.*

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.8945 [Removed]

1. Part 182 by removing § 182.8945 *Vitamin B_{12}*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 184 by adding new § 184.1945, to read as follows:

§ 184.1945 Vitamin B_{12}.

(a) Cyanocobalamin ($C_{63}H_{88}CoN_{14}O_{14}P$, CAS Reg. No. 68–19–9), commonly referred to as vitamin B_{12}, occurs naturally in relatively large amounts in egg yolks, clams, oysters, and animal organs such as liver, kidney, brain, and heart, while secondary sources include muscle meats, dairy products, fish, shrimp, and lobster. Vitamin B_{12} is commercially produced from cultures of *Streptomyces griseus*.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 343, 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 nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter; breakfast cereals as defined in § 170.3(n)(4) of this chapter; grain products and pastas as defined in § 170.3(n)(23) of this chapter; milk products as defined in § 170.3(n)(31) of this chapter; plant protein products as defined in § 170.3(n)(33) of this chapter; and snack foods as defined in § 170.3(n)(37) of this chapter. Vitamin B_{12} may also be used in infant formula in accordance with section 412(g) of the act or with regulations promulgated under section 412(a)(2) of the act.

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 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 26,1982, 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 office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-23520 Filed 8-26-82; 8:45 am]

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21 CFR Parts 182 and 184

[Docket No. 79N-0209]

Gras Status of Potassium Hydroxide and Sodium Hydroxide

AGENCY: Food and Drug Administration.

ACTION: Tentative final rule.

SUMMARY: The Food and Drug Administration (FDA) is tentatively affirming that potassium and sodium hydroxides are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency. FDA is publishing this document as a tentative final rule because of a change in food-grade specifications and because the agency is not including the levels of use or food categories that appeared in the proposal. The agency is offering an opportunity to comment on these changes.

DATE: Comments on the revisions made to the regulations and issued as part of this tentative final rule by October 26, 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: In the Federal Register of February 22, 1980 (45 FR 11842), FDA Published a proposal to affirm that potassium and sodium hydroxides are GRAS for use as direct human food ingredients. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review and the report of the Select Committee on GRAS Substances (the Select Committee) on potassium and sodium hydroxides have been made available to the public in the Dockets Management Branch (address above). Copies of these documents have also been made available for public purchase from the National Technical Information Service as announced in the proposal.

In addition to proposing to affirm the GRAS status of potassium and sodium hydroxides, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient use for these substances, other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of the prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of potassium and sodium hydroxides recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

One report of a prior-sanctioned use of both sodium and potassium hydroxides at a level not greater than the equivalent neutralizing value of 3

parts potassium carbonate per 100 parts of cacao beans was submitted in response to the proposal. The comment requested that separate regulations be established under Part 181 for the use of postassium and sodium hydroxides in cacao products with appropriate cross reference to §§184.1631 and 184.1763 (21 CFR 184.1631 and 184.1763).

In the proposal, the use of potassium and sodium hydroxides in cacao products was acknowledged as being an authorized use. Based on data available to it, FDA finds that there is no reason to believe that the continued use of these hydroxides in cacao products would pose a hazard to the public health when used in accordance with current good manufacturing practice (CGMP). However, because the agency is affirming the GRAS status of potassium and sodium hydroxides for use in food in accordance with CGMP (see § 184.1(b)(1) (21 CFR 184.1(b)(1))), the requested prior-sanctioned use of these substances is covered by the GRAS affirmation regulations, and the agency concludes that there is no need to establish a separate prior sanction regulation in Part 181 for this use.

Twelve additional comments on potassium and sodium hydroxides were received in response to the proposal. The comments and the agency's responses are summarized as follows:

1. Several comments requested additional food categories and increased levels of use for potassium and sodium hydroxides. Two requests were for the use of sodium hydroxide in the "all other foods" category at levels up to 0.15 percent. One comment requested the establishment of an "all other foods" category for the use of potassium hydroxide at a level of 0.000125 percent, while another comment requested the use of this ingredient in the "all other foods" category in accordance with CGMP. In addition, a trade association objected to the proposed limits for the use of potassium and sodium hydroxides in infant formulas. The association stated that the levels set by the proposal do not represent current industry practice. The associaton also argued that use of these foods ingredients is self-limiting because of the narrow pH range in which they are used. The comments emphasized that sodium and potassium hydroxides are being used in one or more foods in each of virtually all processed food categories and are used to adjust the pH of food ingredients as well as final food products.

During the GRAS review, FDA on occasion has recognized that there are substances that should be affirmed as GRAS in accordance with CGMP, but for which it is not desirable to include levels of use (in food as served) or other conditions of use in the GRAS affirmation regulations. For the following reasons, FDA concludes that sodium and potassium hydroxides are two such substances: (1) These substances are bases. Consequently, use of these ingredients is self-limiting. Overuse will produce highly basic and therefore unpalatable food. (2) Because these substances are bases, and most foods are consumed at a relatively neutral pH, sodium and potassium hydroxides are usually removed from or neutralized in the foods to which they are added before those foods are consumed. (3) A wide margin of safety exists between the expected levels of consumption of those substances and the levels at which these substances are known to produce toxic effects. (4) From the number and variety of comments received on this proposal, the agency has determined that the levels of use and food categories listed in the proposal and emumerated in the comments may not reflect all current industry practices. Therefore, the agency has decided to affirm tentatively the GRAS status of potassium and sodium hydroxides 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 tentative affirmation of the GRAS status of potassium and sodium hydroxides is based on the evaluation of limited uses, the regulations set forth the technical effects that FDA evaluated.

In the judgment of FDA, its decision not to include levels of use and food categories does not represent a major departure from the proposed regulations. The levels of use included in the proposal were never intended to be specific limitations, and the proposal was not intended to preclude the use of sodium hydroxide in any food category. In addition, although the proposal did not reflect that potassium hydroxide is used in all food categories, the comments that the agency received establishe that such widespread use of this substance in fact exists. However, to afford interested persons the opportunity to comment on the agency's decision, FDA is issuing this tentative final rule under § 10.40(f)(6) (21 CFR 10.40(f)(6)). FDA will review any comments relevant to the removal of the levels of use and food categories that it receives within the 60-day comment period and will issue in the **Federal Register** either an announcement that this tentative final rule has become final or an announcement of modifications to these regulations made on the basis of the new comments.

In the futuer, 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.

2. Another trade association asked what effect the final rule will have on the use of potassium and sodium hydroxides in the manufacture of caramel.

The agency advises that this use of potassium and sodium hydroxides, when used in accordance with CGMP, is permitted by this tentative final rule.

3. One comment said that affirming that potassium and sodium hydroxides are GRAS for use as food ingredients would allow excess potassium and sodium to enter the food supply.

The Select Committee report indicated that available data show that the amount of potassium and sodium hydroxides used in food processing contributes only 2 to 5 percent of the total potassium and sodium intake from all dietary sources. Accordingly, the Select Committee concluded that these ingredients, as currently used, do not contribute significantly to the usual dietary intake of potassium and sodium. FDA concurs with this conclusion. Therefore, FDA has not modified this tentative final rule in response to this comment.

4. A comment expressed concern about the safety of the use of potassium and sodium hydroxides in food-packaging materials, in view of the fact that these chemicals migrate to the food.

The agency agrees that these substances are used in the manufacture of food packaging. As noted in the proposal, the use of sodium and potassium hydroxides in food-packaging material is provided for under § 184.1(a). Thus, small amounts of these substances may exist in food-packaging materials. However, the primary use of hydroxides in food packaging is for pH control, and the levels of these ingredients expected to remain in the final food-packaging material are very low. Furthermore, any possible migration of these substances to food would be minimized because there is only a small area of contact between most food packaging and the food. Therefore, the agency concludes

that there is no reason to believe that such exposure would pose a hazard to the public health when these ingredients are used in accordance with CGMP, and the agency further concludes that no changes in the tentative final rule in response to this comment are warranted.

5. Another comment asked whether the proposed rule on potassium hydroxide means that the agency is recognizing low level radiation as safe because radioactive potassium (^{40}K) occurs naturally in all potassium compounds.

The agency is aware of the fact that all potassium compounds contain minute amounts of ^{40}K. The agency is also aware that some scientists believe ^{40}K to be the main source of naturally occurring whole body radiation. Potassium is an essential nutrient, and there is no practical way to separate the radioactive from the nonradioactive species. Although ^{40}K concentration can vary with body fat and fluid content, there is no evidence that it accumulates in the body. Furthermore, low level radiation has always been a part of the human environment, and there is no reason to believe that exposure to low level radiation will be significantly increased by the promulgation of this rule. However, this rule does not mean that the agency is approving ^{40}K as an isolated isotope for low level radiation.

FDA has modified this tentative final rule to reflect publication of specifications for potassium and sodium hydroxide in the new Food Chemicals Codex, 3d Ed. No differences exist between the specifications referenced in the proposal and those adopted in the 3d Ed. except for the adoption of a lower limit for mercury (from 1.0 part per million to 0.1 part per million) for solid potassium and sodium hydroxide. FDA is of the opinion that this is a minor change adopted by the Food Chemicals Codex to reflect the purity of solid food-grade potassium and sodium hydroxide currently used in commerce. However, the agency is offering an opportunity for comment on this change. No changes were made in the 3d Ed. on the specifications for potassium and sodium hydroxide solutions. The limit for mercury for both solutions remains 1.0 part million. Both the solid and solution forms of these ingredients can be used interchangeably.

The format of the regulations included in this tentative final rule is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1631 and 184.1763 to make clear the agency's determination that GRAS affirmation is based on CGMP conditions of use, including the technical effects 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 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 this tentative final rule would have on small entities including small businesses. Because the tentative final rule imposes no new restrictions on the use of these ingredients, 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 tentative final rule, and the agency has determined that the final rule, if promulgated from the tentative final rule, would 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 would be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.70 [Amended]

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entry "Sodium hydroxide" from the list of substances.

§ 182.90 [Amended]

b. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entry "Sodium hydroxide" from the list of substances.

§§ 182.1631 and 182.1763 [Removed]

c. By removing § 182.1631 *Potassium hydroxide and § 182.1763 Sodium hydroxide.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1631, to read as follows:

§ 184.1631 Potassium hydroxide.

(a) Potassium hydroxide (KOH, CAS Reg. No. 1310–58–3) is referred to as caustic potash, potash lye, and potassa. The empirical formula is KOH. It is a white, highly deliquescent caustic solid, which is marketed in several forms, pellets, flakes, sticks, lumps, and powders. Potassium hydroxide is obtained commercially from the electrolysis of potassium chloride solution in the presence of a porous diaphragm.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d. Ed. (1981), which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations 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 formulation aid as defined in § 170.3(o)(14) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; processing aid as defined in § 170.3(o)(24) of this chapter; and stabilizer and thickener as defined in § 170.3(o)(28) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in

this section do not exist or have been waived.

b. By adding new § 184.1763, to read as follows:

§ 184.1763 Sodium hydroxide.

(a) Sodium hydroxide (NaOH, CAS Reg. No. 1310–73–2) is referred to as sodium hydrate, soda lye, caustic soda, white caustic, and lye. The empirical formula is NaOH. Sodium hydroxide is prepared commercially by the electrolysis of sodium chloride solution and also by reacting calcium hydroxide with sodium carbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), 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 limitations 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 pH control agent as defined in § 170.3(o)(23) of this chapter and as a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Interested persons may on or before October 26, 1982, file with the Dockets Management Branch (address above) written comments regarding this tentative final regulation. 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: August 2, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-23519 Filed 8-26-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 341

[Docket No. 76N-052C]

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph for Over-the-Counter Anticholinergic Drug Products and Expectorant Drug Products; Notice of Proposed Rulemaking; Extension of Time for Comments, Objections, or Requests for Oral Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking; extension of period for comments, objections, or requests for oral hearing.

SUMMARY: The Food and Drug Administration (FDA) is extending the period for comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs for the notice of proposed rulemaking to establish conditions for the safety, effectiveness, and labeling of over-the-counter (OTC) anticholinergic drug products and expectorant drug products. This action is being taken in response to a request to allow more time for interested persons to compile and submit data on existing studies on the effectiveness of guaifenesin, a Category III expectorant active ingredient, and to consult experts so that more informed comments may be submitted to FDA.

DATE: Written comments, objections, or requests for oral hearing by November 8, 1982.

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

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFD–510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4960.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 9, 1982 (47 FR 30002), FDA issued a notice of proposed rulemaking to establish conditions for the safety, effectiveness, and labeling of anticholinergic drug products and expectorant drug products for OTC human use. This notice of proposed rulemaking, which was based on the agency's evaluation of recommendations of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products, and public comments on those recommendations, is part of the ongoing review of OTC drug products conducted by the agency. Interested persons were given until September 7, 1982, to submit written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs on the notice of proposed rulemaking.

In response to the proposal, A. H. Robins Co. requested a 60-day extension of the time in which to submit comments, objections, or requests for oral hearing in order to allow adequate time for the company to compile and submit data on existing studies on the effectiveness of guaifenesin. These data include human and animal studies and a recent study conducted in Italy to demonstrate the effectiveness of guaifenesin in humans using the objective measurements recommended to A. H. Robins Co. by FDA. The company stated that, as soon as possible after the submission of these data, it plans to meet with FDA to determine if the agency considers these data satisfactory to prove the effectiveness of guaifenesin, or if additional studies will be required. The company added that if the agency concludes that the effectiveness of guaifenesin has not been proven, then it will file comments, objections, and a request for a hearing. The company stated that it plans to contact experts to evaluate the new data and the data previously submitted to FDA and pointed out the difficulty of contacting and consulting with such experts during the summer months.

FDA has carefully considered the request. The agency believes that the studies described in the request may be of assistance in establishing the effectiveness of guaifenesin as an OTC expectorant drug product and may obviate the need for further comments or objections in support of guaifenesin. FDA considers the request to be in the public interest because there currently are no Category I expectorant drug products. The agency therefore considers a general extension of 60 days to be appropriate. Accordingly, the period for comments, objections, or requests for oral hearing by any interested person is extended to November 8, 1982. The agency points out that this extension will not in any way extend the time for final action by the agency on the proposed regulation because the July 11, 1983 date for the submission of new data remains unchanged. Comments may be seen in the Dockets Management Branch, Food and Drug Administration (address above), between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 23, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-23672 Filed 8-26-82; 8:45 am]

BILLING CODE 4160-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-563; RM-4153]

FM Broadcast Station in Panama City, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of a fifth FM channel to Panama City, Florida, in response to a petition filed by WANM, Inc.

DATES: Comments must be filed on or before October 4, 1982, and reply comments on or before October 19, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 11, 1982.

Released: August 19, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Panama City, Florida); BC Docket No. 82-563, RM-4153; notice of proposed rule making.

1. A petition for rule making was filed on June 29, 1982, by WANM, Inc. ("petitioner"), proposing the assignment of Channel 292A to Panama City, Florida, as its fifth commercial FM allocation. Panama City is currently served by AM Stations WDLP and WWWQ; FM Stations WPAP-FM (Channel 223), WPFM (Channel 300), WGNE-FM (Channel 253) and Channel 278 (unapplied for); and noncommercial FM Station WKGC-FM (Channel 214C).

2. In support of the proposal, the petitioner submitted population data pertaining to Panama City. In view of the action taken in the *Second Report and Order*, in BC Docket 80-130, 90 F.C.C. 2d 88 (1982), this information is no longer relevant in a nonconflicting proposal. The petitioner has indicated that the proposed assignment meets the mileage separation requirements of the Commission's Rules and has stated its intention to apply for Channel 292A, if assigned to Panama City.

3. Since the proposed assignment could provide Panama City with an opportunity for its fifth commercial broadcast station, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Rules, as it relates to the following community:

City	Channel No.	
	Present	Proposed
Panama City, Fla.....	223, 253, 278, and 300.	223, 253, 278, 292A, and 300.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before October 4, 1982, and reply comments on or before October 19, 1982, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Attachment: Appendix.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s)

who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 82-23613 Filed 8-26-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 674

North Pacific Fishery Management Council; High Seas Salmon Fishery; Public Hearing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Public Hearing.

SUMMARY: The North Pacific Fishery Management Council (Council) will hold a public hearing on the status of the Southeast Alaska troll salmon fishery.

DATE: The hearing will be held from 7:00 p.m. to 10:00 p.m. on Tuesday, September 21, 1982.

ADDRESS: The hearing will be held at the Centennial Building in Sitka, Alaska.

FOR FURTHER INFORMATION CONTACT: Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, (907) 274-4563.

SUPPLEMENTAL INFORMATION: The purpose of the hearing is to receive comments on the status of the Southeast Alaska troll salmon fishery. The Council is particularly interested in testimony about the 1982 salmon season and whether regulations for that fishery should remain the same for 1983. The Council will accept testimony on its other fishery management plans by agenda items at its meeting on September 21-23, 1982, at the Sitka Centennial Building.

List of Subjects in 50 CFR Part 674

Fish, Fisheries, Fishing, Administrative practice and procedure, Reporting requirements.

(16 U.S.C. 1801 et seq.)

Dated: August 23, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-23574 Filed 8-26-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 167
Friday, August 27, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

National Conservation Review Group Meeting

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Notice of meeting.

SUMMARY: The National Conservation Review Group (formerly the National Program Development Group) will meet to consider recommendations from State and County Conservation Review Groups with respect to the operational features of the Agricultural Conservation Program (ACP), Emergency Conservation Program (ECP) and the Water Bank Program (WBP). Also, comments and suggestions will be received from the public concerning procedures to govern these various conservation and environmental programs administered by the Agricultural Stabilization and Conservation Service (ASCS).

DATES: Meeting date: September 9, 1982.

ADDRESSES: Meeting location: Room 4960 South Building, U.S. Department of Agriculture, 14th and Independence Avenue, S.W., Washington, D.C .

FOR FURTHER INFORMATION CONTACT: Gordell A. Brown, Director, Conservation and Environmental Protection Division, ASCS, U.S. Department of Agriculture, Room 3619, South Building, Washington, D.C. 20013 (202) 447–6221.

SUPPLEMENTARY INFORMATION: The National Conservation Review Group (formerly the National Program Development Group) will hold a meeting to consider recommendations from States and county conservation review groups with respect to the operational features of the ACP, ECP and WBP. The meeting is scheduled to be held from 9:00 a.m. to 12:00 p.m. and from 1:00 p.m. to 3:00 p.m. on September 9, 1982, in Room 4960, South Building, U.S. Department of Agriculture, Washington, D.C. Meeting sessions will be open to the public. The agenda will include consideration of State and county conservation review group recommendations on program changes and changes in the administrative procedures and policy guidelines. In addition, consideration will be given to recommendation for evaluating program effectiveness and operational arrangements. It will also provide an opportunity for the public to present comments on these conservation and environmental programs. The Agricultural Conservation Program (ACP) will be discussed from 9:00 a.m. to 12:00 p.m. The Emergency Conservation Program (ECP) and the Water Bank Program (WBP), will be discussed from 1:00 p.m. to 3:00 p.m. The meeting may also include discussion of current procedures, criteria, and guidelines relevant to the implementation of these programs.

Because of the limitations of space available, persons desiring to attend the meeting should call John Henry at (202) 447–6304.

Dated: August 23, 1982.

C. Hoke Leggett,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82–23605 Filed 8–26–82; 8:45 am]

BILLING CODE 3410–05–M

Commodity Credit Corporation

Adjusted 1982 Crop Price Support Level and Rates—Flue-Cured Tobacco

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Notice of determination of adjusted price support level and grade loan rates—1982 crop flue-cured tobacco.

SUMMARY: This notice sets forth determinations with respect to the adjusted level of price support for eligible grades of 1982 crop flue-cured tobacco. The adjusted support level and rates per grade for flue-cured tobacco were announced by the Secretary on July 21, 1982. The determination of the adjusted level of price support as set forth herein is in accordance with Section 106 of the Agricultural Act of 1949 as amended by the No Net Cost Tobacco Program Act of 1982 (Pub. L. 97–218).

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: C. Russell Levering, (202) 447–7446 or Robert H. Miller, (202) 447–8839. This determination sets forth the price support level for eligible grades of 1982-crop flue-cured tobacco. This level of support and the corresponding adjustment in the support rates for eligible grades have been determined in accordance with Section 106(d) of the Agricultural Act of 1949, as amended. The final regulatory impact analysis describing the impact of implementing the adjusted support level is being prepared and will be available from the above named individuals.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified "not major". It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with Foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program to which this notice applies as set forth in the Catalog of Federal Domestic Assistance are: Title:—Commodity Loan and Purchases; Number: 10.051. This action will not have a significant impact specifically on area and community development. Therefore, review as established by Office of Management and Budget (OMB) Circular A–95 was not used to assure that units of local government are informed of this action.

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

rulemaking with respect to the subject matter of this notice.

Under the price support program for flue-cured tobacco, the Commodity Credit Corporation (CCC) makes loans to a cooperative marketing association which, in turn, makes price support available by means of advances to producers through auction warehouses. Price support advances are based upon specified loan rates for each grade of tobacco which average the required level of support when weighted by the anticipated grade percentages of the specified crop.

Section 106 of the Agricultural Act of 1949 was amended by the No Net Cost Tobacco Program Act of 1982 to authorize the Secretary to reduce the support rate which would otherwise be established for any grade of any kind of tobacco, including flue-cured tobacco, which the Secretary determines will likely be in excess supply. The 1982 Act provides, however, that the weighted average of the support rates for all eligible grades of such kind of tobacco must, after such reduction, reflect not less than 65 percent of the increase in the support level for such kind of tobacco which would otherwise be established under Section 106 of the 1949 Act if the support level is higher than the support level for the preceding crop. Before any such reduction is made, the Secretary must consult with the association handling price support loans for the kind of tobacco involved and consideration must be given to the supply and demand of such tobacco, including the effect of such reduction on other kinds of quota tobacco.

On July 21, 1982, the Secretary announced by press release that the adjusted support level for the 1982 crop of flue-cured tobacco was 169.9 cents per pound. The Secretary also announced the adjusted grade loan rates for flue-cured tobacco. The announcement of the level of support and the grade loan rates was based upon the following considerations.

The 1982–83 supply of flue-cured tobacco is 3,062 million pounds which is substantially in excess of the reserve supply level, i.e., a supply deemed adequate to meet domestic use and export needs, currently estimated to be 2,568 million pounds. During 1981–82, the 106 million pounds of flue-cured tobacco place under price support loan to the association represented 128 of the 135 eligible grades. As of June 30, 1982, the flue-cured association held stocks (redried weight) of 459 million pounds (367 million of which were uncommitted) representing 1975 through 1981 crops. About one-half of the inventory consists of the less marketable grades.

In view of the foregoing factors, reductions have been made for all official grades of flue-cured tobacco to the maximum extent permissible under the provisions of the 1982 Act. The support level determined for 1981 crop flue-cured tobacco was 158.7 cents per pound. (See 46 FR 33351). The support level initially determined for the 1982 crop of flue-cured tobacco was 175.9 cents per pound (See 47 FR 26418 and 28441).

The increase multiplied by 65 percent results in an adjusted price support level of 169.9 cents per pound. The support rates determined by the Secretary for the various grades of 1982 crop flue-cured tobacco, taking into consideration the percentage distribution of all official grades, reflect the 169.9 cents per pound adjusted support level.

Since the purpose of this notice is to affirm the announcement made by the Secretary on July 21, 1982 with respect to the adjusted level of support and the adjusted grade loan rates for the 1982 crop of flue-cured tobacco, it has been determined that no further public rulemaking shall be required.

Determinations

Accordingly, the adjusted level of price support for the 1982 crop of flue-cured tobacco is 169.9 cents per pound. The grade loan rates reflecting this adjusted level of support for the 1982 crop of flue-cured tobacco shall be those rates announced by the Secretary of Agriculture on July 21, 1982. The level of support and the grade loan rates which have been determined and announced for the 1982 crop are not expected to affect the supply and price of other grades of other kinds of quota tobacco. The grade loan rates are available at county ASCS offices, producer associations and the Tobacco and Peanuts Division, Agricultural Stabilization Conservation Service, Washington, D.C.

(Secs. 4, and 5, 62 Stat. 1070 as amended (15 U.S.C. 714b, 714c); Secs. 101, 106, 401, 406, 63 Stat. 1051, as amended, 1054, 74 Stat. 6 (7 U.S.C. 1421, 1423, 1426, 1441, 1445.))

Signed at Washington, D.C. on August 23, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82-23581 Filed 8-26-82; 8:45 am]

BILLING CODE 3410-05-M

1982 Cotton Loan Program

Correction

In FR Doc. 82–22207, appearing at page 36002, in the issue of Wednesday, August 18, 1982, make the following changes:

1. On page 36002, in the first column, in the **SUMMARY** paragraph, the 11th line should read "producers on 1982-crop cotton based".

2. On page 36002, in the second column, the 4th paragraph, the 4th line "57–08" should read "57.08".

3. On page 36003, in the table, the 8th entry in the column headed 1⅛ (36) now reading "−974" should read "−975".

BILLING CODE 1505-01-M

Rural Electrification Administration

E.N.M.R. Telephone Cooperative, Clovis, New Mexico; Proposed Loan Guarantee

AGENCY: Rural Electricifation Administration (REA), USDA.

ACTION: Proposed Loan Guarantee.

SUMMARY: Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 320–22, "Guarantee of Loans for Telephone Facilities," dated February 4, 1975, published in proposed form in the **Federal Register** September 16, 1974 (Vol. 39 No. 180, pages 33228–33229), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $11,000,000 to E.N.M.R. Telephone Cooperative, Clovis, New Mexico. This loan guarantee will be used to finance the construction of facilities to extend telephone service to new subscribers and improve telephone service for existing subscribers.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Hudson, President, E.N.M.R. Telephone Cooperative, P.O. Box 1450, Clovis, New Mexico 88101.

SUPPLEMENTARY INFORMATION: Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for advances to the borrower of the guaranteed loan funds from Mr. Paul Hudson at the address given above.

In order to be considered, proposals must be submitted by September 27, 1982 to Mr. Paul Hudson. The right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as E.N.M.R. Telephone Cooperative and REA deem appropriate. Prospective

lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 320–22 are available from the Director, Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

Dated: August 24, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82–23603 Filed 8–26–82; 8:45 am]

BILLING CODE 3410–15–M

Navajo Communications Co., Inc., Window Rock, Arizona; Proposed Loan Guarantee

AGENCY: Rural Electrification Administration, (REA), USDA.

ACTION: Proposed Loan Guarantee.

SUMMARY: Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 320–22, "Guarantee of Loans for Telephone Facilities," dated February 4, 1975, published in proposed form in the **Federal Register** September 16, 1974 (Vol. 39 No. 180, pages 33228–33229), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $21,139,000 to Navajo Communications Co., Inc., Window Rock, Arizona. This loan guarantee will be used to finance the construction of facilities to extend telephone service to new subscribers and improve telephone service for existing subscribers.

FOR FURTHER INFORMATION CONTACT: Mr. J. L. Shepard, President, Navajo Communications Co., Inc., P.O. Box 429, Grandview, Texas 76050.

SUPPLEMENTARY INFORMATION: Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for advances to the borrower of the guaranteed loan funds from Mr. J. L. Shepard at the address given above.

In order to be considered, proposals must be submitted by September 27, 1982 to Mr. J. L. Shepard. The right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as Navajo Communications Co., Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 320–22 are available from the Director, Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

Dated: August 24, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82–23602 Filed 8–26–82; 8:45 am]

BILLING CODE 3410–15–M

Soyland Power Cooperative, Inc., Decatur, Illinois; Proposed Loan Guarantee

AGENCY: Rural Electrification Administration (REA), USDA.

ACTION: Proposed Loan Guarantee.

SUMMARY: Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $863,500,000 to Soyland Power Cooperative, Inc. (Soyland), Decatur, Illinois. These loan funds will be used to finance Soyland's construction of a 500 MW coal-fired generating plant in Pike County, Illinois, 111 miles of 345 kV transmission line, 10 miles of 138 kV transmission line and a headquarters facility.

FOR FURTHER INFORMATION CONTACT: Mr. Richard R. Ruzich, Executive Vice President, Soyland Power Cooperative, Inc., P.O. Box A1606, Decatur, Illinois 62525.

SUPPLEMENTARY INFORMATION: Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Richard R. Ruzich at the address given above.

In order to be considered, proposals must be submitted September 27, 1982 to Mr. Ruzich. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Soyland and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: August 24, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82–23601 Filed 8–26–82; 8:45 am]

BILLING CODE 3410–15–M

Wells Rural Electric Co.; Finding of No. Significant Impact

AGENCY: Rural; Electrification Administration, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to the proposed financing assistance to Wells Rural Electric Company (Wells) of Wells, Nevada, for the construction of 138 kV transmission facilities in Elko County, Nevada.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment and Wells' Borrower's Environmental Report (BER) may be reviewed at or obtained from Mr. William E. Davis, Director, Distribution Systems Division, Room 3304, South Agriculture Building, Washington, D.C. 20250, telephone: (202) 382–8848, or Mr. Leo M. Standley, Manager, Wells Rural Electric Company, P.O. Box 365, Wells, Nevada 39835, telephone: (702) 752–3328, during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in connection with a request for financing assistance from Wells, has reviewed the BER submitted by Wells and has

determined that it represents an accurate assessment of the environmental impact of the proposed project. The proposed project consists of approximately 80 km (50 mi) of 138 kV transmission line between the Wells Substation and the proposed Ruby Balley 138 to 69–24.9/14.4 kV Substation. Based on the BER and other support documents, REA prepared an Environmental Assessment concerning the proposed project and its impacts. REA concluded that the proposed financing assistance would not be a major Federal action significantly affecting the quality of the human environment.

The BER and EA adequately consider potential impacts of the proposed project on resources including threatened and endangered species, important farmlands, cultural resources, wetlands and floodplains.

Alternatives examined include no action, energy conservation, underground construction, alternate routes and alternate materials. After reviewing these alternatives, REA determined that the proposed project is an acceptable alternative because it meets Wells' needs with a minimum of adverse impacts.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: August 23, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82–23604 Filed 8–26–82; 8:45 am]

BILLING CODE 3410–15–M

Soil Conservation Service

Pine Creek Watershed, Texas

AGENCY: Soil Conservation Service.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: George C. Marks, responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S. 100–1008, in the State of Texas, is hereby providing notification that a record of decision to proceed with the installation of the Pine Creek Watershed project is available. Single copies of this record of decision may be obtained from George C. Marks at the address shown below.

FOR FURTHER INFORMATION CONTACT: George C. Marks, State Conservationist, Soil Conservation Service, P.O Box 648, Temple, Texas 76503, telephone 817–736–1214.

(Catalog of Federal Domestic Assistance—Program N. 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.)

[FR Doc. 82–23488 Filed 8–26–82; 8:45 am]

BILLING CODE 3410–16–M

Big Valley-Willow Creek Critical Area Treatment RC&D Measure, California

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene E. Andreuccetti, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California 95616, telephone 916–758–2200.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (4 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Big Valley-Willow Creek Critical Area Treatment RC&D Measure, Lassen County, California.

The environmental assessment of this Federal action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Eugene E. Andreuccetti, State Conservationist has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of facilities for erosion and sediment control. The planned works of improvement include installation of grade stabilization structures, filling the roadside ditch to a designed grade, armoring the sides and bottom of the waterway with native rock, and establishing vegetation on disturbed areas near the waterway.

The Notice of a Finding of No Significant Impact has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Eugene E. Andreuccetti, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California 916–758–2200. A combined environmental assessment and finding of no significant impact has been prepared and sent to various Federal, State and local agencies and interested parties. A limited number of copies of the finding of no significant impact are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication.

Eugene E. Andreuccetti,

State Conservationist.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program-Pub. L. 87–703, 16 U.S.C. 590 a–f, q.)

Dated: August 18, 1982.

[FR Doc. 82–23463 Filed 8–26–82; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended August 20, 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
Aug. 16, 1982.....	40925	Alaska Island Air, Inc., c/o Mr. Lloyd R. Roundtree, P.O. Box 508, Petersburg, Alaska 99833. Application of Alaska Island Air, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural regulations requests a certificate of public convenience and necessity for an indefinite period to perform scheduled interstate air transportation of persons, property and mail within the State of Alaska between the terminal point Petersburg, and the intermediate point Kake. Conforming Applications, motions to modify scope, and Answers may be filed by September 13, 1982.
Aug. 19, 1982.....	40935	Ports Of Call Travel Club (Inc.), c/o H. Shepherd Lippincott, 2009 North Fourteenth Street, Suite 708, Arlington, Virginia 22201. Application of Ports of Call Travel Club (Inc.) pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural regulations requests permanent authority to engage in interstate and overseas charter air transportation of persons, property and mail as follows: (a) Between any point in any State in the United States or in the District of Columbia, or any territory or possession of the United States and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States; and (b) In interstate and overseas air transportation pursuant to contracts with the Department of Defense. Applicant requests such approval under Section 408 and 409 of the Act as may be necessary or, in the alternative, such exemptions or disclaimers of jurisdiction as may be appropriate. Conforming Applications, motions to modify scope, and Answers may be filed by September 16, 1982.
Aug. 20, 1982.....	40939	Air Florida, Inc. 3900 N.W. 79th Avenue, Miami, Florida 33166. Conforming Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests a certificate of public convenience and necessity authoritzing it to engage in air transportation with respect to persons, property and mail on a new segment as follows: Between the terminal point Tampa, Florida, the terminal point London, England. Air Florida requests it be authorized to integrate this new certificate authority with its other certificate authority on routes 197-F, 253 and 261 subject, of course, to such route authority integration being consistent with applicable local regulations and bilateral agreements. Answers may be filed by September 3, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-23589 Filed 8-26-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40828]

Central Zone-Caracas/Maracaibo, Venezuela Service Case; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to commence on October 19, 1982, at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., August 23, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-23593 Filed 8-26-82; 8:45 am]

BILLING CODE 6320-01-M

Announcement of Proposed Collection of Information

Agency Clearance Officer from whom a copy of the collection of information and supporting documents is available: Robin A. Caldwell (202) 673-5922.

New

Title of the Collection of Information: International Civil Aviation Organization (ICAO) Survey of Users and Providers of Air Carrier Statistics
Agency Form Number: None
How often the Collection of Information must be filed: One time
Who is asked or required to report: Selected air carriers; state government agencies dealing in transportation; aircraft manufacturers and vendors; consulting and data processing firms; universities and public libraries; airport operators; and financial institutions
Estimate of number of annual responses: 115
Estimate of number of annual hours needed to complete the collection of information: 920

New

Title of the Collection of Information: Report of Aircraft Operating Expenses and Related Statistics
Agency Form Number: None
How often the Collection of Information must be filed: Quarterly
Who is asked or required to report: Small certificated air carriers that provide only domestic service
Estimate of number of annual responses: 100
Estimate of number of annual hours needed to complete the collection of information: 200.

Dated: August 23, 1982.

Robin A. Caldwell,

Chief, Information Management Division.

[FR Doc. 82-23594 Filed 8-26-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40937]

Tampa-London Case; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on September 15, 1982, at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge Ronnie A. Yoder.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of position; and (5) proposed procedural dates. The Bureau of International Aviation will circulate its material on or before August 30, 1982, and the other parties on or before September 7, 1982. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., August 23, 1982.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 82-23598 Filed 8-26-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40937]

Tampa-London Service Proceeding; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D.C., August 23, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-23591 Filed 8-26-82; 8:45 am]

BILLING CODE 6320-01-M

Transporte Aereo Dominicano, S.A.; Order

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: Order 82-8-95.

SUMMARY: The Board proposes to dismiss the following application:

Applicant: Transporte Aereo Dominicano, S.A.

Application Date: September 16, 1980, Docket: 38717

Authority Sought: Scheduled and nonscheduled foreign air transportation of persons, property, and mail between the Dominican Republic and Miami, Florida; New York, New York; Puerto Rico; and the U.S. Virgin Islands; as well as between Haiti and Miami, Florida.

Basis for Decision: The applicant has lost its operating authority from the Dominican Republic.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this application should be dismissed, as described in the order cited above, shall, NO LATER THAN September 13, 1982, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, Rich International Airways, Inc., the Department of Transportation, the Department of State, and the Ambassador of the Dominican Republic in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will make final the Board's tentative findings and conclusions and dismiss the application.

ADDRESSES FOR OBJECTIONS:

Docket 38717, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428

Transporte Aereo Dominicano, S.A. c/o John J. McLaughlin, Esquire, Poston, Taylor & McLaughlin, 313 Park Avenue, Suite 400, Falls Church, VA 22046

Rich International Airways, Inc., c/o Gary B. Garofalo, Boros & Garofalo, P.C., 1120 Connecticut Avenue, NW., Suite 460, Washington, D.C. 20036.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Allan Lewis, Regulatory Affairs Division of the Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5134.

By the Civil Aeronautics Board: August 20, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-23588 Filed 8-26-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40580]

Samoa, Inc., d.b.a. Samoa Airlines, Inc., Fitness Investigation; Postponement of Hearing

By letter dated August 23, 1982, the applicant requests that the hearing in this proceeding, currently scheduled for August 25, 1982, be postponed until September 23, 1982, due to business changes that have occurred during the past month. The applicant has also agreed to circulate revised exhibits, requested by the Bureau of Domestic Aviation, on September 15, 1982. The other parties do not object to these procedures. Since none of the Board's hearing rooms are available on September 23, 1982, the hearing will be rescheduled for September 24, 1982.

Accordingly, notice is hereby given that a hearing in the above-entitled matter scheduled to be held on August 25, 1982 (47 FR 32179, July 26, 1982) is hereby postponed until September 24, 1982, at 10:00 a.m. (local time), in Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, before the undersigned administrative law judge.

Dated at Washington, D.C., August 23, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-23592 Filed 8-26-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-8-100, Docket 40813]

Application of FirstAir Corp. for Certificate Authority Under Subpart Q; Order Instituting Fitness Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice.

SUMMARY: The Board is instituting an investigation to determine the fitness of FirstAir Corp. to engage in the interstate and overseas air transportation of persons, property and mail between all points in the United States, its territories and possessions, except in all-cargo service within Alaska or Hawaii.

DATES: Persons wishing to intervene in the *FirstAir Corp. Fitness Investigation* shall file their petitions in Docket 40813 by September 7, 1982.

ADDRESSES: Petitions to intervene should be filed in Docket 40813, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on persons listed in the attachment and on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Peter M. Bloch, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-8-100 is available from our Distribution Section, Room 100, 1825 Connecticut Ave., N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-8-100 to that address.

By the Bureau of Domestic Aviation: August 23, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-23586 Filed 8-26-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-8-91; Docket 40937]

Tampa-London Service Proceeding; Order Instituting Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice.

SUMMARY: The Board is instituting the *Tampa-London Service Proceeding* to select a primary and back-up carrier to provide scheduled nonstop service between Tampa, Florida and London, England. The complete text of Order 82-8-91 is available as noted below.

DATES: Applications, motions to consolidate applications conforming to the scope of this proceeding, petitions from interested parties, and petitions for reconsideration shall be filed by August 30, 1982.

ADDRESSES: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 40937, *Tampa-London Service Proceeding.*

FOR FURTHER INFORMATION CONTACT: Ronald A. Brown, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5203.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-8-91 is available from our Distribution Section, Room 100, 125 Connecticut Avenue, N.W., Washington, D.C. 20428.

By the Civil Aeronautics Board: August 20, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-23587 Filed 8-26-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Carbon Steel Wire Nails From Japan; Announcement of Fourth Quarter Monitoring Prices

AGENCY: International Trade Administration, Commerce.

ACTION: Announcement of Fourth Quarter 1982 Monitoring Prices for Carbon Steel Wire Nails from Japan.

SUMMARY: The Department of Commerce continues to monitor imports of carbon steel wire nails from Japan in accordance with an August 11, 1981 memorandum of understanding which expires two years from its inception, and announces that fourth quarter 1982 monitoring prices for carbon steel wire nails from Japan have decreased 14 percent from the first quarter 1982 levels. The fourth quarter 1982 monitoring price applies to those products exported to the United States on or after October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Juanita S. Kavalauskas, Agreements Compliance Division, Import Administration, Room 3099, Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3793.

SUPPLEMENTARY INFORMATION: On August 20, 1981 (46 FR 42316), the Department of Commerce published a notice advising the public that its self-initiated antidumping investigation of certain steel wire nails from Japan (46 FR 34613) was being terminated. The termination was based upon a memorandum of understanding submitted August 10, 1981 from the Japanese nail manufacturers which provided assurances that all contracts for the sale of carbon steel wire nails to the United States below trigger prices ceased on or about March 5, 1981, and that all sales of the product for a two year period beginning August 11, 1981 would be made at prices at or above the relevant trigger prices.

The Japanese nail manufacturers agreed to supply all costs of production and transportation information necessary to monitor the import prices. The Japanese manufacturers agreed that if the Trigger Price Mechanism (TPM) were terminated or suspended prior to the two year period, they would continue to provide TPM type cost information through the Japanese Ministry of International Trade and Industry (MITI) in order that the Department of Commerce could continue to calculate monitoring prices.

As a result of a January 11, 1982 filing of major antidumping and countervailing duty petitions by seven U.S. steel producers against producers in eleven countries, the TPM was suspended. In accordance with the August 11, 1981 memorandum of understanding, monitoring imports of certain carbon steel wire nails from Japan through the use of Special Summary Steel Invoices will be continued to assure compliance with fourth quarter 1982 price levels.

For its calculation of monitoring price levels the dollar/yen exchange rate the Department uses to convert Japanese steel producers' yen-dominated production cost to dollars is the average of the 36 months preceding the calculation and publication of the quarter's monitoring price levels. The exchange rate used in the Department's fourth quarter 1982 production cost estimate is 228 yen to the dollar (the yen/dollar exchange rate average for August 1979 through July 1982.)

Department of Commerce officials have visited Japanese carbon steel wire nail facilities to observe production processing, and DOC officials and a certified public accountant from an outside accounting firm have analyzed and verified production cost data submitted by Japanese wire nail manufacturers through MITI.

Commerce's dollar-valued estimate of the current production cost to Japan's wire nail producers declined 14.0 percent from the first quarter 1982 level. The decrease in the cost of wire rod from the previous quarter accounted for almost one-third of the total monitoring price decline. Although fuel oil experienced an increase in cost from first quarter 1982, this was offset by a decline in the Japanese manufactuer's usage rate. The decline in the total cost of fuel oil accounted for two-thirds of the total monitoring price decline from first quarter 1982. Electricity experienced a decline in both cost and usage. The fourth quarter 1982 production cost reduction is enhanced by a depreciation in the yen.

Other Charges

The fourth quarter 1982 carbon steelwire nail monitoring prices are an estimate of the Japanese wire manufacturers' production cost plus the cost of transporting and handling in the United States. Thus, charges for freight, interest, handling and insurance must be added to the production costs described above and reflected in monitoring price base and extras. The freight and handling charges remain unchanged from first quarter 1982 levels. Interest charges remain unchanged from first quarter 1982 levels. Interest charges, which declined an average of 26 percent, have been adjusted to reflect the current level prime interest rate. A list of the carbon steel wire nails subject to monitoring and applicable base prices and extras are reproduced in the Appendix to this notice.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

APPENDIX—MONITORING PRICES FOR CARBON STEEL WIRE NAILS FROM JAPAN

[AISI Category 20]

4th Quarter Base Price per Metric Ton $406

Charges to CIF	Ocean freight	Handling	Interest
Pacific Coast	$51	$9	$13
Gulf Coast	65	5	16
Atlantic Coast	70	4	16
Great Lakes	79	4	20

Insurance 1% of base price + extras + ocean freight.
Extras:
1. General Extras.
2. Regular and Semi-Regular Wire Nails.
3. Smooth Shank Specialty Wire Nails, Special Order Size Extras.
4. Ring, Screw, and Fluted Shank Specialty Wire Nails, Special Order Size Extras.

	Extras
1. General	
A. Machine Use Quality	$39
B. Packing:	
Standard 50 lb. Carton (loose)	Base
100 lb. Carton	Base
1 lb. x 50	219
5 lb. x 10	131
C. Palletizing	17
D. Quantity: Less that 2,400 lb. per size, order, marking, destination, shipment	14

ASWG	Size extra
2. Regular and semi-regular nail extras (dollars per metric ton)	
(1) Bright Common Nails:	
2d #15 x 1 1/4" x 1"	$94
3d #14 x 1 3/4" x 1 1/4"	77
4d #12 1/2 x 1 1/4" x 1 1/4"	63
5d #12 1/2 x 1 1/4" x 1 3/4"	52
6d #11 1/2 x 1 3/4" x 2"	34
7d #11 1/2 x 1 3/4" x 2 1/4"	32
8d #10 1/4 x 1 3/4" x 2 1/2"	26
9d #10 1/4 x 1 3/4" x 2 3/4"	26
10d #9 x 1 3/4" x 3"	22
12d #9 x 1 3/4" x 3 1/4"	22
16d #8 x 1 3/4" x 3 1/2"	18
20d #6 x 1 3/4" x 4"	Base
30d #5 x 1 3/4" x 4 1/2"	32
40d #4 x 1 3/4" x 5"	32
50d #3 x 1 3/4" x 5 1/2"	32
60d #2 x 1 3/4" x 6"	39
(2) Bright Smooth Box Nails:	
2d #15 1/2 x 1 1/4" x 1"	114

ASWG	Size extra
3d #14½ x 1 1/4"	92
4d #14 x 1 1/2"	74
5d #14x 1 3/4"	59
6d #12½ x 2"	46
7d #12½ x 2 1/4"	45
8d #11½ x 2 1/2"	39
9d #11½ x 2 3/4"	39
10d #10½ x 3"	32
12d #10½ x 3 1/4"	32
16d #10 x 3 1/2"	29
20d #9 x 4"	26
30d #9 x 4 1/2"	46
40d #8 x 5"	46
(3) Bright Finishing Nails Cupped Head:	
3d #15½ x #12½ x 1¼"	113
4d #15 x #12 x 1½"	90
5d #15 x 12 x 1¾"	82
6d #13 x 10 x 2"	55
8d #12½ x #9½ x 2½"	52
9d #12½ x #9½ x 2¾"	52
10d #11½ x #8½ x 3"	46
12d #11½ x #8½ x 3¼"	46
16d #11 x 8 x 3½"	45
(4) Bright Casing Nails:	
2d #15½ x 12½ x 1"	129
3d #14½ x # 11½ x 1¼"	103
4d #14 x #11 x 1½"	78
5d #14 x #11 x 1¾"	71
6d #12½ x #9½ x 2"	53
7d #12½ x #9½ x 2¼"	52
8d #11½ x #8½ x 2½"	46
9d #11½ x 8½ x 2¾"	46
10d #10½ x #7½ x 3"	45
12d #10½ x #7½ x 3¼"	45
16d #10 x #7 x 3½"	39
(5) E/G (Electro Galvanized) Common Nails:	
2d #15 x 1"	200
3d #14 x 1 1/4"	182
4d #12½ x 1½"	168
5d #12½ x 1¾"	157
6d #11½ x 2"	125
7d #11½ x 2¼"	121
8d #10½ x 2½"	115
9d #10½ x 2¾"	115
10d #9 x 3"	111
12d #9 x 3¼"	111
16d #8 x 3½"	108
20d #6 x 4"	90
30d #5 x 4½"	121
40d #4 x 5"	121
50d #3 x 5½"	121
60d #2 x 6"	129
(6) E/G Smooth Box Nails:	
2d #14½ x 1"	220
3d #14½ x 1¼"	198
4d #14 x 1½"	180
5d #14 x 1¾"	164
6d #12½ x 2"	137
7d #12½ x 2¼"	135
8d #11½ x 2½"	129
9d #11½ x 2¾"	129
10d #10½ x 3"	121
12d #10½ x 3¼"	121
16d #10 x 3½"	119
20d #9 x 4"	115
30d #9 x 4½"	137
40d #8 x 5"	137
(7) E/G Finishing Nails Cupped Head:	
3d #15½ x #12½ x 1¼"	218
4d #15 x #12 x 1½"	196
5d #15 x 12 x 1¾"	187
6d #13 x #10 x 2"	145
8d #12½ x #8½ x 2½"	141
9d #12½ x 9½ x 2¾"	141
10d #11½ x #8½ x 3"	137
12d #11½ x #8½ x 3¼"	137
16d #11 x 38 x 3½"	135
20d #10 x #7 x 4"	129
(8) E/G Casing Nails:	
2d #14½ x #12½ x 1"	234
3d #14½ x #11½ x 1¼"	210
4d #14 x #11 x 1½"	184
5d #14 x 11 x 1¾"	176
6d #12½ x #9½ x 2"	144
7d #12½ x #9½ x 2¼"	142
8d #11½ x #8½ x 2½"	137
9d #11½ x 8½ x 2¾"	137
10d #10½ x #7½ x 3"	135
12d #10½ x #7½ x 3¼"	135
16d #10 x 7 x #3½"	129
(9) H/D (Hot Dip Galvanized) Common Nails:	
2d #15 x 1"	348
3d #14 x 1 1/4"	331
4d #12½ x 1½"	316
5d #12½ x 1¾"	305
6d #11½ x 2"	273
7d #11½ x 2¼"	270
8d #10½ x 2½"	263
9d #10½ x 2¾"	263
10d #9 x 3"	260
12d #9 x 3¼"	260
16b #8 x 3½"	256
20d #6 x 4"	238
30d #5 x 4½"	270
40d #4 x 5"	270
50d #3 x 5½"	270
60d #2 x 6"	278
(10) H/D Smooth Box Nails:	
2d #15½ x 1"	368
3d #14½ x 1¼"	347
4d #14 x 1½"	326
5d #14 x 1¾"	313
6d #12½ x 2"	286
7d #12½ x 2¼"	284
8d #11½ x 2½"	278
9d #11½ x 2¾"	278
10d #10½ x 3"	270
12d #10½ x 3¼"	270
16d #10 x 3½"	267
20d #9 x 4"	264
30d #9 x 4½"	286
40d #8 x 5"	286
(11) H/D Finishing Nails Cupped Head:	
3d #15½ x #12½ x 1¼"	366
4d #15 x #12 x 1½"	345
5d #15 x #12 x 1¾"	336
6d #13 x #10 x 2"	293
8d #12½ x #9½ x 2½"	290
9d #12½ x 9½ x 2¾"	290
10d #11½ x #8½ x 3"	286
12d #11½ x 8½ x 3¼"	286
16d #11 x 8 x 3½"	284
20d #10 x 7 x 4"	278

ASWG	Total extra	Size extra	H/D extra
(12) H/D Casing Nails			
2d #15½ x #12½ x 1"	$383	($129)	($254)
3d #14½ x #11½ x 1¼"	357	(103)	(254)
4d #14 x #11 x 1½"	332	(78)	(254)
5d #14 x #11 x 1¾"	324	(71)	(254)
6d #12½ x #9½ x 2"	292	(53)	(238)
7d #12½ x #9½ x 2¼"	290	(52)	(238)
8d #11½ x #8½ x 2½"	285	(46)	(238)
9d #11½ x #8½ x 2¾"	285	(46)	(238)
10d #10½ x #7½ x 3"	283	(45)	(238)
12d #10½ x #7½ x 3¼"	283	(45)	(238)
16d #10 x #7 x 3½"	277	(39)	(238)

ASWG	Size extra
(13) Cement Coated Box Nails:	
4d #15 x 1 3/4"	$120
4½d #15 x 1½"	120
5d #15 x 1 3/4"	99
6d #13½ x 1¾"	86
7d #13½ x 2¼"	84
8d #12½ x 2 1/4"	74
9d #12½ x 2¾"	74
10d #11½ x 2¾"	67
(14) Cement Coated Corkers Nails:	
3d #15 x 1½"	125
4d #13½ x 1½"	96
5d #13½ x 1¾"	86
6d #12½ x 1¾"	74
7d #12½ x 2¼"	71
8d #11 x 2½"	65
9d #11 x 2¾"	65
10d #10 x 2¾"	61
12d #10 x 3¼"	59
16d #9 x 3½"	58
20d #7 x 3¾"	52
30d #6 x 4½"	65
40d #5 x 4¾"	65
50d #4 x 5½"	65
60d #3 x 5¾"	74
(15) Cement Coated Coolers Nails:	
3d #15½ x 1½"	125
4d #14 x 1¾"	96
5d #13½ x 1¾"	86
6d #13 x 1¾"	74
7d #12½ x 2¼"	71
8d #11½ x 2½"	65
9d #11½ x 2¾"	65
10d #11 x 2¾"	61
(16) Cement Coated or Vinyl Coated Sinkess Nails:	
3d #15½ x 1¾"	125
4d #14 x 1¾"	96
5d #13½ x 1¾"	86
6d #13 x 1¾"	74
7d #12½ x ¼" x 2¼"	71
8d #11½ x 1¾" x 2½"	65
10d #11 x 2½"	61
12d #10 x 3¼"	59
16d #9 x 3½"	58
20d #7 x 3¾"	52
30d #6 x 4¼"	65
40d #5 x 4¾"	65
60d #3 x 5½"	74
(17) Cement Coated Apple Box Nails:	
5d #14 x 1¾"	99
5½d #14 x 1¾"	99
(18) Cement Coated Fruit Box Nails:	
4d #15 x 1½"	120
(19) Cement Coated Orange Box Nails:	
4d #15 x 1¼"	120
(20) Cement Coated Egg Case Nails:	
3d #15 x 1¼"	134

ASWG	Size and E/G extra
(21) Bright Barbed Roofing Nails:	
#11 x 1"	$120
#11 x 1½"	109
#11 x 1¼"	96
#11 x 1½"	90
# x 2"	71
#12 x 1"	146
#12 x 1¼"	131
#12 x 1½"	121
#12 x 1¾"	112
#12 x 2"	96
(22) E/G (Electro Galvanized) Barbed Roofing Nails:	
#11 x 1"	161
#11 x 1¼"	147
#11 x 1½"	134
#11 x 1¾"	129
# x 2"	109
#12 x 1"	184
#12 x 1¼"	172
#12 x 1½"	161
# x 1¾"	155
#12 x 3"	134

ASWG	Total extra	Size extra	Head extra
(23) Bright Duplex Head Nails:			
6d #11½ x 1¾"		$98	
8d #10½ x 2½"		86	
10d #9 x 2¾"		86	
16d #8 x 3"		74	
(24) Bright Smooth Joist Hanger Nails:			
#11 x 1½"		101	
#10½ x 1½"		98	
#9 x 1½"		98	
(25) Tempered Hardened Steel Concrete Nails:			
#9 x 1"	$261	(113)	($149)
#9 x 1¼"	258	(109)	(149)
#9 x 2"	243	(94)	(149)
(26) Bright Smooth Shank Drywall Nails:			
#12½ x 1¼"		109	
#12½ x 1¾"		107	
#12½ x 1½"		101	

ASWG	Total extra	Size extra	Barbed extra
(27) Bright Barbed Shank Plywood Nails:			
#9 x 5/16" x 2"	$94	($82)	($12)
#9 x 5/16" x 2 1/4"	94	(82)	(12)
#9 x 5/16" x 2 1/2"	90	(78)	(12)
#10 1/2 x 3/8" x 1 1/4"	100	(88)	(12)
(28) Bright Barbed Shank Joist Hanger Nails:			
#11 x 3/8" x 1 1/4"	102	(90)	(12)
#10 1/2 x 3/8" x 1 1/2"	96	(84)	(12)
#9 x 5/16" x 1 1/2"	96	(84)	(12)
(29) Bright Barbed Shank Truss Nails:			
#11 x 9/32" x 1 1/2"	102	(90)	(12)

(Dollars per metric ton)

ASWG	Total extra	Size extra	E/G extra
4. Ring, Screwed and Fluted Shank Nail Extras			
#12 1/2 x 13/64" x 1 3/4"		$192	
#12 1/2 x 13/64" x 1 1/2"		184	
#12 1/2 x 13/64" x 1 3/4"		184	
#12 1/2 x 1/4" x 1"		192	
# 2 1/2 x 1/4" x 1 1/4"		192	
(51) Bright Ring Shank Underlay Nails:			
#13 x 7/16" x 1"		254	
#13 x 7/16" x 1 1/4"		250	
#13 x 7/16" x 1 3/4"		226	
#12 1/2 x 5/16" x 1 1/2"		192	
#12 1/2 x 5/16" x 1 3/4"		192	
#12 1/2 x 3/32" x 1"		192	
#12 1/2 x 3/32" x 1 1/4"		192	
#12 1/2 x 3/32" x 1 1/2"		192	
#12 1/2 x 1/4" x 1 1/4"		192	
#12 1/2 x 1/4" x 1 3/4"		192	
#12 1/2 1/4" x 2"		180	
#14 x 5/16" x 1"		367	
(52) E/G Annular Threaded Drywall Nails:			
#12 1/2 x 13/64" x 1 1/4"	$297	(192)	($105)
#12 1/2 x 13/64" x 1 3/4"	297	(192)	(105)
#12 1/2 x 13/64" x 1 1/2"	290	(185)	(105)
#12 1/2 x 13/64" x 1 3/4"	289	(184)	(105)
#13 x 13/64" x 1"	359	(254)	(105)
#13 x 13/64" x 1 1/2"	331	(226)	(105)
(53) E/G Annular Threaded Shake Nails:			
#13 x 7/16" x 1 1/2"	331	(266)	(105)
#13 x 7/16" x 1 3/4"	331	(266)	(105)
#13 x 7/16" x 2"	312	(207)	(105)

ASWG	Total extra	Size extra	Blued extra
(54) Blued Annular Threaded Drywall Nail:			
#12 1/2 x 13/64" x 1 1/4"	$266	($192)	($74)
#12 1/2 x 13/64" x 1 3/4"	266	(192)	(74)
#12 1/2 x 13/64" x 1 1/2"	258	(184)	(74)
#12 1/2 x 13/64" x 1 3/4"	258	(184)	(74)
(55) Blued Annular Threaded Underlay Nails:			
#14 1/2 x 7/16" x 1"	449	(375)	(74)
#14 x 7/16" x 1"	441	(367)	(74)
#14 x 7/16" x 1 1/2"	433	(359)	(74)
#13 x 7/16" x 1"	328	(254)	(74)
#13 x 7/16" x 1 3/4"	300	(226)	(74)
#12 1/2 x 9/32" x 1 1/2"	266	(192)	(74)
#12 1/2 x 9/32" x 1 1/2"	266	(192)	(74)

ASWG	Total extra	Size extra	C.C. extra
(56) C.C. Annular Threated Drywall Nails:			
#12 1/2 x 13/64" x 1 1/2"	$218	($192)	($26)
#12 1/2 x 13/64" x 1 3/4"	218	(192)	(26)
#12 1/2 x 13/64" x 1 1/2"	210	(184)	(26)
#12 1/2 x 13/64" x 1 3/4"	210	(184)	(26)
#13 x 13/64" x 1"	280	(254)	(26)

ASWG	Total extra	Size extra	C.C. extra
#13 x 13/64" x 1 1/4"	280	(254)	(26)

ASWG	Total extra	Size extra	H/D extra
(57) H/D Annular Threaded Shake Nails:			
#14 x 9/32" x 1 3/4"	$590	($352)	($238)
#14 x 9/32" x 1 1/2"	575	(337)	(238)
#13 x 9/32" x 2"	442	(204)	(238)
#12 1/2 x 13/64" x 2 1/2"	415	(176)	(238)

ASWG	Total extra	Size extra	T.H. extra
(58) Tempered Hardened Steel Ring Shank Pole Barn Nails:			
#7 x 3/4" x4"	$333	($184)	($149)
#7 x 3/4" x5"	364	(215)	(149)
(59) Bright Drive Screw Nails (Regular Steel C–1023)			
#12 x 1/4" x 1 1/2"		180	
#12 x 1/4" x 2"		176	
#11 1/2 x 9/32" x 2 1/4"		172	
#11 x 9/32" x 2 1/4"		172	
#11 x 9/32" x 2 1/2"		164	
#10 x 5/16" x 3"		164	

ASWG	Total extra	Size extra	T.H. extra
(60) Bright Drive Screw Nails (Stiff Stock C–1030):			
#11 1/2 x 9/32" x 2"	$200	($172)	($28)
#11 1/2 x 9/32" x 2 1/4"	200	(172)	(28)
#11 x 9/32" x 2 1/2"	192	(164)	(28)
(61) Bright Drive Screw Nails (Stiff Stock C–1040):			
#11 1/2 x 9/32" x 2"	204	(172)	(32)
#11 1/2 x 9/32" x 2 1/4"	204	(172)	(32)
#11 x 9/32" x 2 1/2"	196	(164)	(32)

ASWG	Total extra	Size extra	T.H. extra
(62) C.C. Drive Screw Nails (Regular Steel C–1023):			
#12 x 1/4" x 1 1/2"	$206	($180)	($26)
#11 1/2 x 9/32" x 2"	198	(172)	(26)
#11 1/2 x 9/32" x 2 1/4"	198	(172)	(26)
#11 x 9/32" x 2 1/2"	190	(164)	(26)
#10 x 5/16" x 3"	190	(164)	(26)
#9 x 5/16" x 3 1/2"	190	(164)	(26)

ASWG	Total extra	size extra	C.C. extra	Head extra
3. Smooth Shank Specialty Nails Extras (dollars per metric ton)				
(30) C.C. (Cement Coated) Plaster Board Nails:				
#13 x 19/64" x 1"	$137	($111)	($26)	
#13 x 19/64" x 1 3/4"	137	(111)	(26)	
#13 x 19/64" x 1 1/2"	132	(107)	(26)	
#13 x 11/32" x 1 1/2"	165	(107)	(26)	($33)
#13 x 11/32" x 1 3/4"	165	(107)	(26)	(33)
#13 x 3/8" x 1 1/2"	165	(107)	(26)	(33)
#13 x 3/8" x 1 3/4"	165	(107)	(26)	(33)

ASWG	Total extra	size extra	C.C. extra	Head extra
(31) C.C. Smooth Shank Drywall Nails:				
#12 1/2 x 19/64" x 1 3/4"	132	(107)	(26)	
#12 1/2 x 19/64" x 1 1/2"	126	(101)	(26)	
#12 1/2 x 1/4" x 1 3/4"	132	(107)	(26)	
#12 1/2 x 1/4" x 1 1/2"	126	(101)	(26)	
#12 1/2 x 11/32" x 1 1/2"	160	(101)	(26)	(33)

ASWG	Total extra	Size extra	C.C. extra	Barbed extra
(32) C.C. Barbed Shank Truss Nails:				
#11 x 9/32" x 1 1/2"	$134	($96)	($26)	($12)
(33) C.C. (or Vinyl Coated) Barbed Drywall Nails:				
#14 x 1/4" x 1 1/4"	149	(111)	(26)	(12)
#13 x19/64" x 1 1/2"	144	(107)	(26)	(12)
#12 1/2 x 19/64" x 1 1/2"	138	(101)	(26)	(12)

ASWG	Total extra	Size extra	C.C. extra	Phosphate extra
(34) Phosphate Coated Drywall Nails (Flat Head):				
#14 x 1/4" x 1 1/4"	$170	($111)		($59)
#13 x 19/64" x 1 1/2"	166	(107)		(59)

ASWG	Total extra	Size extra	Phosphate extra	Full cup extra
(35) Phosphate Coated Dryw 11 Nails (Full Cup Head):				
#14 x 1/4" x 1 1/4"	$194	($111)	($59)	($24)
#13 x 9/32" x 1 1/2"	$190	(107)	(59)	(24)
#13 1/2 x 13/64" x 1 1/2"	187	(103)	(59)	(24)

ASWG	Total extra	Size extra	H/D extra	Full cup extra
(36) H/D Galv. Smooth Siding Nails:				
7d #11 1/2 x 9/32" x 2 1/2"	$324	($86)	($238)	
8d #11 1/2 x 9/32" x 2 1/2"	316	(78)	(238)	

ASWG	Total extra	Size extra	Blued extra	Head size extra
(37) Sterilized Blued Plaster Board Nails:				
#13 x 13/64" x 1"	$185	($111)	($74)	
#13 x 13/64" x 1 1/4"	185	(111)	(74)	
#13 x 13/64" x 1 1/2"	181	(107)	(74)	
#13 x 3/8" x 1"	218	(111)	(74)	($33)

ASWG	Total extra	Size extra	Blued extra	Head size extra
(38) Sterilized Blued Lath Nails:				
3d #15 x 1¼" x 1⅛"	211	(137)	(74)	.....
(39) Sterilized Blued Shingle Nails:				
#15 x 7/32" x 1¼"	211	(137)	(74)	.....

ASWG	Total extra	Size extra	E/G extra
(40) E/G Smooth Siding Nails:			
5d #14 x 1¾"	$214	($109)	($105)
6d #12½ x 2"	184	(94)	(90)
7d #12½ x 2¼"	184	(94)	(90)
8d #11½ x 2½"	176	(86)	(90)
(41) E/G Shingle Nails:			
3d #14 x ⅞" x 1¾"	214	(109)	(105)
4d #13 x ⅞" x 1½"	206	(101)	(105)
(42) E/G Plaster Board Nails:			
#13 x 15/64" x 1"	216	(111)	(105)
#13 x 15/64" x 1¼"	216	(111)	(105)
#13 x 15/64" x 1½"	206	(101)	(105)
(43) E/G Smooth Joist Hanger Nails:			
#9 x 9/16" x 1⅞"	203	(98)	(105)
#9 x 9/16" x 1⅞"	187	(96)	(90)
#10¼ x 9/32" x 1¼"	204	(99)	(105)

ASWG	Total extra	Size extra	E/G extra	Barbed extra
(44) E/G Barbed Shank Joist Hanger Nails:				
#8 x 13/32" x 2"	$181	($78)	($90)	($12)
#9 x 9/16" x 1⅞"	196	(94)	(90)	(12)
#10¼ x 9/32" x 1⅞"	200	(98)	(90)	(12)
#11 x 15/64" x 1¼"	203	(101)	(90)	(12)

(45) E/G Barbed Shank Plywood Nails:				
10¼ x 7/16" x 1⅜"	200	(98)	(90)	(12)
(46) E/G/ Barbed Shank Truss Nails:				
#11 x 9/32" x 1½"	203	(101)	(90)	(12)
(47) E/G Barbed Shank Siding Nails:				
#14 x 9/16" x 1⅞"	226	(109)	(105)	(12)
#13½ x 9/32" x 1½"	218	(101)	(105)	(12)

ASWG	Total extra	Size extra	E/G extra	T.H. extra
(48) E/G Tempered Hardened Steel Concrete Stub Nails:				
#9 x 9/16" x 1"	$366	($113)	($105)	($149)
x 1½"	363	(109)	(105)	(149)
x 2"	333	(94)	(90)	(149)

ASWG	Total extra	Size extra	E/G extra	Paint extra	Barbed extra
(49) E/G Barbed Shank Painted Siding Nails:					
#12½ x 9/16" x 2"	$364	($94)	($90)	($168)	($12)

ASWG	Total extra	Size extra	E/G extra	Paint extra	Barbed extra
#12½ x 9/16" x 2½	364	(94)	(90)	(168)	(12)
#13 x 9/16" x 1¾"	395	(110)	(105)	(168)	(12)
#13 x 9/16" x 1½"	394	(109)	(105)	(168)	(12)
#13 x 9/16" x 2"	368	(98)	(90)	(168)	(12)

Special Order Size Extras for Smooth Shank Specialty Nails

[Dollars per metric ton]

Length	Gauge								
	4-6½	7-8½	9-10½	11-11½	12-12½	13-13½	14-14½	15-16½	17-18
½	.....	.....	131	.....	.....	.....	.....	.....	.....
⅝	.....	.....	114	.....	.....	.....	149	161	180
¾	.....	.....	105	.....	120	125	140	155	172
⅞	.....	.....	101	.....	113	117	132	149	164
1 to 1⅜	.....	.....	98	101	105	109	125	140	.....
1½ to 1⅞	.....	.....	94	96	99	103	117	132	.....
2 to 2½	.....	94	90	90	94	98	113	.....	.....
2½ to 3	.....	90	86	82	86	90	.....	.....	.....
3⅛ to 4	86	86	78	.....	.....	.....	.....	.....	.....
4⅛ to 5	82	82	71	.....	.....	.....	.....	.....	.....
5⅛ up	78	78	.....	.....	.....	.....	.....	.....	.....

NOTE.—Size extras determined from this table apply only to items 30–49.

ASWG	Total extra	Size extra	T/H extra
(63) Tempered Hardened Steel Drive Screw Nails:			
#11½ x 9/32" x 2¼"	*$317	*($170)	*($147)
#11 x 9/32" x 2½"	*310	*(163)	*(147)
(64) Tempered Hard Steel Drive Screw Flooring Nails:			
6d #11½ x 13/64" x 2"	*317	(170)	(147)
7d #11½ x 13/64" x 2¼"	317	(170)	(147)
8d #11½ x 13/64" x 2½"	310	(163)	(147)
(65) Bright Annular Threaded Truss Nails:			
#11 x 9/32" x 1½"	175	(175)	.....

ASWG	Total extra	Size extra	T/H extra	E/G extra
(66) Tempered Hardened Steel E/G Screw Siding Nails:				
7d #11½ x 9/32" x 2¼"	$407	($170)	($147)	($89)
8d #11½ x 9/32" x 2½"	409	(172)	(147)	(89)
(67) Tempered Hardened Steel Fluted Masonry Nails:				
#9 x 9/16" x 1"	346	(199)	(147)	.....
#9 x 9/16" x 1¼"	346	(199)	(147)	.....
#9 x 9/16" x 1½"	337	(190)	(147)	.....
#9 x 9/16" x 2"	330	(183)	(147)	.....
#9 x 9/16" x 2½"	311	(164)	(147)	.....

ASWG	Total extra	Size extra	T/H extra	H/D extra
(68) Tempered Hardened Steel H/D Galv. Screw Siding Nails:				
7d #11½ x 9/32" x 2¼"	$407	($170)	($147)	($89)
8d #11½ x 9/32" x 2½"	401	(164)	(147)	(89)

Special Order Size Extras for Ring, Screwed and Fluted Shank Specialty Nails

[Dollars per metric ton]

Length	Gauge							
	4-6½	7-8½	9-10½	11-11½	12-12½	13-13½	14-14½	15-16½
¾	.....	.....	243	.....	.....	.....	422	.....
⅞	.....	.....	226	.....	.....	290	398	430
1 to 1⅜	.....	.....	207	184	192	250	363	390
1½ to 1⅞	.....	.....	200	176	187	226	349	371
2 to 2½	.....	.....	192	172	180	204	312	.....
2½ to 3	.....	172	172	166	172	187	.....	.....
3⅛ to 4	218	172	172	.....	.....	.....	.....	.....

SPECIAL ORDER SIZE EXTRAS FOR RING, SCREWED AND FLUTED SHANK SPECIALTY NAILS—Continued

[Dollars per metric ton]

Length	Gauge							
	4-6½	7-8½	9-10½	11-11½	12-12½	13-13½	14-14½	15-16½
4½ up	234	207						

NOTE.—Size extras determined from this table apply only to items 50-68.

[FR Doc. 82-23289 Filed 8-26-82; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

New York Mercantile Exchange: Proposed Amendments Relating to the Gulf Coast No. 2 Heating Oil, Gulf Coast Leaded Gasoline and Gulf Coast Unleaded Gasoline Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The New York Mercantile Exchange ("NYME" or "Exchange") has submitted a proposal to amend its Gulf Coast No. 2 heating oil, Gulf Coast leaded regular gasoline and Gulf Coast unleaded regular gasoline futures contracts. These amendments constitute revisions to the delivery terms and conditions of the contracts. The Commodity Futures Trading Commission ("Commission") has determined that the proposals are of major economic significance and that, accordingly, publication of the proposals 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 27, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Reference should be made to the New York Mercantile Exchange, Rules 170.04, 170.10, 180.04 and 180.10.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254-7303.

SUPPLEMENTARY INFORMATION: By letters dated February 23, 1982, April 19, 1982, and August 9, 1982, the New York Merchantile Exchange ("NYME" or "Exchange") submitted proposed amendments to Rules 170.04 and 170.10 of its Gulf Coast No. 2 heating oil futures contract and Rules 180.04 and 180.10 of its Gulf Coast leaded gasoline and Gulf Coast unleaded gasoline futures contracts for Commission approval pursuant to Section 5a(12) of the Commodity Exchange Act, as amended.

The proposed amendments relate to the delivery terms and conditions for the NYME's Gulf Coast heating oil and gasoline futures contracts. The Exchange's proposed amendments would reduce the delivery area for these contracts to two counties: Harris County, Texas and Jefferson County, Texas. The Exchange feels that the low level of trade interest in the current Gulf Coast petroleum contracts is due to the wide delivery area, which extends from Pasadena, Harris County, Texas, to Collins, Covington County, Mississippi, making the determination of contract value difficult. The NYME believes a reduction in the delivery area to Harris and Jefferson Counties will make the contracts more usable to members of the trade, while maintaining a large enough delivery area to allow for substantial deliverable supplies. The NYME is also proposing to require any seller delivering less than 25 contracts ("odd-lots") to deliver at Pasadena, Harris County, Texas. The Exchange believes this amendment should facilitate batching these odd-lots for pipeline shipment.

The NYME's proposed amendments to its Gulf Coast heating oil and leaded and unleaded regular gasoline contracts would be applied to all contracts listed for trading at the time of Commission approval, as well as newly listed contracts.

In accordance with Section 5a(12) of the Commodity Exchange Act (the "Act"), 7 U.S.C. 7a(12) (Supp. IV 1980), the Commission has determined that the proposals submitted by the NYME concerning its Gulf Coast heating oil and gasoline futures contracts are of major economic significance. Accordingly, the NYME's proposed amendments are printed below, using bracketing to indicate deletions and italic to indicate additions:

170.04(A)(6)—Gulf Coast No. 2 heating oil

180.04(A)(6)—Gulf Coast gasolines

By truck, if the facility used by the seller allows such a transfer. For the purpose of these rules, Gulf Coast shall [extend from Pasadena, Harris County, Texas to Collins, Covington County, Mississippi, and include facilities located in Brazoria County, Texas and Jackson County, Mississippi which have access to Colonial Pipeline injection points in Pasadena, Texas and Collins, Mississippi.] *mean Harris County, Texas and Jefferson County, Texas.*

170.04(B)—Gulf Coast No. 2 heating oil

180.04(B)—Gulf Coast gasolines

If delivery is taken by truck the buyer shall pay $0.05 per gallon surcharge. All other deliveries shall be at par except for Colonial Pipeline deliveries at [Beaumont (Jefferson County, Texas), Port Arthur (Jefferson County, Texas), Lake Charles (Calcasieu Parish, Louisiana), Baton Rouge Junction (E. Feliciana Parish, Louisiana) or Collins (Covington County, Mississippi).] *Beaumont (Jefferson County, Texas) and Port Arthur (Jefferson County, Texas).* Such deliveries shall be at a differential reflecting the rates and charges which apply to the transportation of Petroleum Products as described in and subject to the provisions of ICC 29, supplements thereto, or reissues thereof, issue by Colonial Pipeline Co., from and to the points named herein.

170.04(C)—Gulf Coast No. 2 heating oil

180.04(C)—Gulf Coast gasolines

Any seller delivering less than 25 contracts for any one person shall deliver at Pasadena, Harris County, Texas. The term person includes individuals, partnerships, corporations, associations and trusts.

170.10(D)—Gulf Coast No. 2 heating oil

180.10(D)—Gulf Coast gasolines

The seller's ex-shore facility must have access to any Colonial Pipeline injection point [from Pasadena, Harris County, Texas to Collins, Covington County, Mississippi]. *in either Harris County, Texas or in Jefferson County, Texas.* The seller must pay all costs to transfer the product to the nearest Colonial Pipeline intake flange.

Other materials submitted by the NYME in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the

FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by September 27, 1982. 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 23, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-23620 Filed 8-26-82; 8:45 am]

BILLINGH CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Prepare a Draft Environmental Impact Statement

The United States Air Force proposes to deploy an Over-the-Horizon Backscatter (OTH-B) radar system on the West Coast of the United States. The radar will be part of a continental system to provide improved atmospheric tactical warning of air threats to North America. An experimental OTH-B system has been constructed in Maine as the first phase of a complete continental system. The proposed action will be the subject of a Draft Environmental Impact Statement (EIS) which will be prepared by the Air Force.

The proposed West Coast system would consist of: a transmitter, a receiver, an operations center, and support facilities for maintenance and security. The transmitter and receiver sites must be remotely located, sited in electromagnetically quiet environments, and be separated from each other by approximately 100 miles. The transmitter site will require about 1,000 acres and the receiver site about 700 acres.

The Air Force has completed a preliminary survey for candidate sites. Two different locations in the vicinity of Christmas Valley, Oregon, will be considered for the transmitter. Two alternative receiver site locations lying within some thirty-five air miles of Alturas, California, will be evaluated. Locations to be considered for the operations center, which need not be restricted with respect to proximity to either transmitter or receiver sites, are: Kingsley Field, OR; Mountain Home AFB, ID; McClellan AFB, CA; and McChord AFB, WA. Kingsley Field is also the candidate site for maintenance and security support facilities. Approximately 450 military and civilian personnel would be employed to operate and maintain the system. (The precise mix of military and civilian authorizations has not been determined.) Approximately one-half of the personnel would work at the transmitter or receiver site and the other half would work at the command and control site.

The environmental analysis will consider such topics as biophysical effects, electromagnetic emissions, land use compatibility, and the impacts of introducing direct mission support personnel into the respective communities in which the operations center and the support facility (or facilities) would be located.

Participation in the environmental analysis process by interested federal, state and local agencies, as well as interested private organizations and individuals, is invited. Public meetings will be held in early September 1982 to review the proposed action and facilitate public involvement in the environmental analysis. Exact time and place of meetings will be announced in the local news media.

It is estimated the Draft EIS will be available for public review and comment in early 1983.

Questions concerning the proposal, public meeting(s) and EIS may be directed to:

Mr. R. Raffa,

HQ ESD/SCU, Hanscom AFB, MA 01731, (617) 861-3758.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-23621 Filed 8-26-82; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Privacy Act of 1974; Amendment of Systems of Records

AGENCY: Department of the Navy, DOD.

ACTION: Amendment of six systems of records notices.

SUMMARY: The Department of the Navy proposes to amend the notices for six systems of records in its inventory of systems of records subject to the Privacy Act of 1974. The proposed amendments followed by the systems as amended are set forth below.

DATES: The proposed actions will be effective without further notice on September 27, 1982, unless comments are received which would result in a contrary determination.

ADDRESS: Any comments, to include written data, views or arguments concerning the actions proposed should be addressed to the systems managers identified in the systems notices.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B1P), Department of the Navy, The Pentagon, Washington, D.C. 20350. Telephone: 202/694-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records notices are prescribed by the Privacy Act of 1974, Title 5 U.S.C. 552a (Pub. L. 579; 44 Stat. 1896, *et seq.)* have been published in the **Federal Register** at:

FR Doc. 81-674 (47 FR 2574) January 18, 1982
FR Doc. 81-9204 (47 FR 14944) April 7, 1982
FR Doc. 82-9844 (47 FR 15636) April 12, 1982
FR Doc. 82-12593 (47 FR 20018) May 10, 1982
FR Doc. 82-15596 (47 FR 25041) June 9, 1982

None of these amendments require the filing of an altered system report in accordance with 5 U.S.C. 552a(o).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

August 4, 1982.

N06150-1

System name:

Medical Department Professional/Technical Personnel Development (47 FR 2709) January 18, 1982

Changes:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In line 3, delete the phrase: "* * * education and training activities * * *" and insert the following phrase: "* * * education, training and command activities * * *" At the end of the entry, add the following phrase: "* * * and to maintain information of adverse actions or revocations of health care providers' clinical credentials for dissemination to the various federal and state licensure boards, professional regulating bodies, and appropriate military and civilian organizations and facilities."

N04410-3

System name:

Duty Free Vehicle Log (47 FR 2672) January 18, 1982

Changes:

System location:

Delete the entire entry and substitute with the following: "Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515."

Categories of individuals covered by the system:

In line 2, delete the phrase: "* * * NAVAVNWPNSFAC * * *" and substitute with "* * * NAVWPNSFACDET * * *"

System manager(s) and address:

Delete the entire entry and substitute with the following: "Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515."

N05527-4

System: name

Naval Security Group Personnel Security/Access Files (47 FR 2692) January 18, 1982

Changes:

System location:

At the end of the entry, add the following address: "Resident in Charge, Naval Security Group Field Office, Naval Technical Training Center, Corry Station, Pensacola, Florida 32511."

Categories of records in the system:

In line 6, delete the phrase: "* * * Special Intelligence (SI) * * *" and substitute with the phrase: "* * * Sensitive Compartmented Information (SCI) * * *"

Authority for the maintenance of the system:

At the end of the entry delete the phrase: "* * * E.O. 11652 Classification and Declassification of National Security Information and Material" and substitute with the following phrase: * * * E.O. 12356 National Security Information.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In lines 2, 4, 6, 9, and 27, delete the acronym: "* * * SI * * *" and substitute with the acronym: "* * * SCI * * *"

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Delete the entire entry and substitute with the following: "File folders, microfilm and magnetic tape."

Retrievability:

Delete the phrase: "* * * date/place of birth" and substitute with: "* * * social security number."

Safeguards:

In line 4, delete the acronym: "* * * SI * * *" and substitute with the acronym: "* * * SCI * * *"

Record source categories:

In line 5, delete the acronym: "* * * SI * * *" and substitute with the scronym: "* * * SCI * * *"

N06320-3

System name: BUMED Risk Management (47 FR 2715) January 18, 1982

Changes:

System name:

Delete the existing title and substitute with the title "BUMED Quality Assurance/Risk Management"

Categories of individuals covered by the system:

Delete existing lines 3 and 4 and substitute with the following: "* * * converge upon Naval medical treatment care, or health related ancillary or support services consistent with institutional purposes. Such individuals may be noted in organized reviews of care provided, reviews of injuries or mishaps sustained, or be governed by stipulations under which care may be rendered."

Categories of records in the system:

At the end of the entry, add the following phrase: "* * * and credentialing program documents".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "This system will be utilized by military and civilian employees of BUMED-command activities, and Headquarters, BUMED in the performance of their official duties related to the Navy Medical Department's Quality Assurance/Risk Management Program. Records in the system will be used to review the quality and appropriateness of care provided; investigate, analyze, and report accidents, injuries, and other incidents; to identify health care providers with known or suspected problems; and to maintain information of adverse actions or revocations of health care providers' clinical credentials for dissemination to the various federal and state licensure boards, professional regulating bodies, and appropriate military and civilian organizations and facilities.

N10140-6

System name:

Gasoline Ration System (47 FR 2729), January 18, 1982

Changes:

System location:

Delete the entire entry and substitute with the following: "Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515."

Categories of individuals covered by the system:

In line 2, delete the phrase: "* * * NAVAVNWPNSFAC * * *" and substitute with "* * * NAVWPNSFACDET * * *"

System manager(s) and address:

Delete the entire entry and substitute with the following: "Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York, 09515."

N10140-7

System name:

Application for U.S. Navy Ration Permit (47 FR 2729) January 18, 1982

Changes:

System location: Delete the entire entry and substitute with the following: "Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515."

Categories of individuals covered by the system: In line 2, delete the phrase: "* * * NAVAVNWPNSFAC * * *" and substitute with "* * * NAVWPNSFACDET * * *"

System manager(s) and address: Delete the entire entry and substitute with the following: "Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515."

N04410-3

System name:

Duty Free Vehicle Log (47 FR 2672) January 18, 1982

System location:

Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515.

Categories of individuals covered by the system:

Individuals stationed aboard NAVWPNSFACDET Machrihanish who owns vehicles purchased or imported into the United Kingdom duty free.

* * * * * * *

System manager(s) and address:

Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515.

* * * * * * *

N05527-4

System name:

Naval Security Group Personnel Security/Access Files

* * * * * * *

System location:

The central record system is located at: Commander, Naval Security Group Command, 3801 Nebraska Avenue, NW, Washington, D.C. 20390.

Duplicates of portions of records may be held by other Naval and Marine Corps activities served by a Naval Security Group Special Security Officer. Records pertaining to Naval and Marine Corps military personnel who were considered but not selected for assignment to the Naval Security Group while undergoing recruit training are located at one of the following locations:

Resident in Charge, Naval Security Group Field Office, Marine Corp Recruit Depot, Parris Island, South Carolina 29905;

Resident in Charge, Naval Security Group Field Office, Naval Administration Command, Naval Training Center, Great Lakes, Illinois 60088;

Resident in Charge, Naval Security Group Field Office, U.S. Naval Training Center, San Diego, California 92133;

Resident in Charge, Naval Security Group Field Office, Naval Training Center, Orlando, Florida 32813; and

Resident in Charge, Naval Security Group Field Office, Naval Technical Training Center, Corry Station, Pensacola, Florida 32511.

* * * * * * *

Categories of records in the system:

The file may contain personal history information, investigative reports, security suitability reports, incident reports, and other data pertinent to determination of eligibility for access to Sensitive Compartmented Information (SCI) including the decisions made in each case. The file also contains records of authorized access to classified information.

Authority for maintenance of the system:

E.O. 10450 Eisenhower Security Program and E.O. 12356 National Security Information.

* * * * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information is collected and used by SCI security personnel for the purposes of determining the individual's eligibility for access to SCI, of maintaining a record of the degree(s) to which access to SCI has been authorized, and of determining the extent, if any, to which controls must be exercised to prevent the compromise of SCI through hostile foreign intelligence activity. Information may be disseminated outside the Department of the Navy to the National Security Agency, Defense Intelligence Agency, Army Security Agency, Air Force Security Service, Central Intelligence Agency, White House Communications Agency and/or the Defense Industrial Security Clearance Office for the purpose of determining the individual's eligibility for access to classified information under the user Agency's congnizance. Information may be disseminated to the Defense Investigative Service and Naval Investigative Service for the purpose of conducting investigations on which to base SCI eligibility decisions. The access records portion of the system may be made available to the Director of Central Intelligence to maintain an index of personnel who have been granted access to certain sensitive intelligence programs.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

File folders, microfilm and magnetic tape.

Retrievability:

By name and social security number.

Safeguards:

Approved security areas with alarms and guards. Access is limited to assigned personnel who have been found eligible for access to SCI and received specific instruction in the handling, security, and dissemination policy of information in the files.

* * * * *

Record source categories:

In addition to information furnished by the individual, files contain information furnished by federal investigative agencies, other SCI security organizations, and reports submitted by Naval Security Group Special Security Officer. Files also include administrative correspondence among associated personnel and security offices of the executive branch.

* * * * *

N06150-1

System name:

Medical Department Professional/Technical Personnel Development.

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Military and civilian employees of BUMED and BUMED managed education, training and command activities in the performance of their official duties related to procurement, assignments, professional/specialty/technical, training, credentialing, promotion, and all other aspects of health care personnel managment; career development; evaluation of candidates for position of lecturer/consultant; mobilization, planning, and verification of reserve service; surgical team contingency planning; management of physical standards; maintenance of safe occupational/environmental protection standards and to maintain information of adverse actions or revocations of health care providers' clinical credentials for dissemination to the various federal and state licensure boards, professional regulating bodies, and appropriate military and civilian organizations and facilities.

* * * * *

N06320-3

System name:

BUMED Quality Assurance/Risk Management.

* * * * *

Categories of individuals covered by the system:

Patients, staff visitors, contractors, and other personnel who converge upon Naval medical treatment care, or health related ancillary or support services consistent with institutional purposes. Such individuals may be noted in organized reviews of care provided, reviews of injuries or mishaps sustained, or be governed by stipulations under which care may be rendered.

Categories of records in the system:

Incident reports; follow-up reports; letters, memos, and other correspondence or supportive statements; statistical reports; committee minutes and credentialing program documents.

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

This system will be utilized by military and civilian employees of BUMED-command activities, and Headquarters, BUMED in the performance of their official duties related to the Navy Medical Department's Quality Assurance/Risk Management Program. Records in the system will be used to review the quality and appropriateness of care provided; investigate, analyze, and report accidents, injuries, and other incidents; to identify health care providers with known or suspected problems; and to maintain information of adverse actions or revocations of health care providers' clinical credentials for dissemination to the various federal and state licensure boards, professional regulating bodies, and appropriate military and civilian organizations and facilities.

* * * * *

N10140—6

System name:

Gasoline Ration System (47 FR 2729) January 18, 1982.

System location:

Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515.

Categories of individuals covered by the system:

All personnel stationed aboard NAVWPNSFACDET Machrihanish who own private vehicles and wish to purchase Navy Exchange Gasoline.

* * * * *

System manager(s) and address:

Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515.

* * * * *

N10140—7

System name:

Application for U.S. Navy Ration Permit (47 FR 2729) January 18, 1982.

System location:

Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515.

Categories of individuals covered by the system:

All personnel stationed at NAVWPNSFACDET Machrihanish desiring to utilize U.S. Navy Exchanges in the United Kingdom.

* * * * *

System manager(s) and address:

Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515.

* * * * *

[FR Doc. 82-23536 Filed 8-26-82; 8:45 am]

BILLING CODE 3810-71-AE

Privacy Act of 1974; Deletion of System of Records

AGENCY: Department of the Navy, DOD.

ACTION: Deletion of one system of records notice.

SUMMARY: The Department of the Navy proposes to delete the notice of one system of records in its inventory of systems of records subject to the Privacy Act of 1974.

DATES: The proposed action will be effective without further notice on September 27, 1982, unless comments are received which would result in a contrary determination.

ADDRESS: Any comments, to include written data, views or arguments concerning the action proposed should be addressed to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B1P), Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: (202) 694-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records notices as prescribed by the Privacy Act have been published in the **Federal Register** at:

FR Doc. 81-674 (47 FR 2574) January 18, 1982
FR Doc. 81-9204 (47 FR 14944) April 7, 1982
FR Doc. 82-9844 (47 FR 15636) April 12, 1982
FR Doc. 82-12593 (47 FR 20018) May 10, 1982
FR Doc. 82-15596 (47 FR 25041) June 9, 1982

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

August 23, 1982.

Deletion

N01710-2

System name: Youth Activities Association Membership Record (47 FR 2679) January 18, 1982

Reason: This system has been incorporated into system notice #N01710-1, "Special Membership Listing of the Organizational Recreastion Association"

[FR Doc. 82-23533 Filed 8-26-82; 8:45 am]

BILLING CODE 3810 AE-M

DEPARTMENT OF EDUCATION

Community Education Advisory Council Meeting

AGENCY: Community Education Advisory Council, Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for the forthcoming meeting of the Community Education Advisory Council. It also describes the functions of the Council. Notice of these meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: MEETING: September 13 and 14, 1982.

ADDRESS: Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Ron Castaldi, Department of Education, Community Education Program, 7th & D Streets, S.W., Regional Office Building No. 3, Room 5622, Washington, D.C. 20202. Telephone: (202) 245-0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory Council is authorized under Public Law 95-561. The Council is established to advise on policy matters relating to the interest of community schools.

All sessions of this meeting are open to the public. The meeting will begin at 9:00 a.m. on Monday, September 13 and end at 4:30 p.m. On Tuesday, September 14, the meeting will begin at 9:00 a.m. and end at 3:00 p.m.

At the last meeting held in Portland, Oregon on June 14 and 15, 1982, the Council discussed the National evaluation process; examined future roles, functions, and projects of the Council, considered the Federal role in Community Education; and reviewed the Council's annual report.

Proposed agenda items for this meeting include:

(1) the future role of the Council

(2) the Federal role in community education

(3) the 1982 report to Congress

(4) groups that can assist in service delivery to communities

(5) consideration of other administrative matters

Records shall be kept of all Council proceedings and shall be available for public inspection in Regional Office Building No. 3, Room 5622, 7th & D Streets, S.W., Washington, D.C. 20202.

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

John K. Wu,

Deputy Assistant Secretary for Vocational and Adult Education.

[FR Doc. 82-23619 Filed 8-26-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-82-022]

Powerplant and Industrial Fuel Use Act of 1978: Electric Utility Conservation Plans

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Receipt of Proposed Electric Utility Conservation Plans.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received a number of electric utility conservation plans developed and submitted for DOE approval pursuant to Section 808 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 et seq., as amended (FUA or the Act).

Pursuant to 10 CFR 508.4(b), DOE hereby gives Notice of Receipt of Proposed Conservation Plans from the electric utility owners or operators listed in the **SUPPLEMENTARY INFORMATION** section below. The publication of this notice commences a thirty (30) day public comment period during which interested persons are invited to submit written comments concerning the content of any such proposed conservation plan.

The public file for each of the listed electric utility owners or operators containing the proposed conservation plan and any other pertinent documents is available at the Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, S.W., Room 1E-190, Washington, D.C. 20585, telephone (202) 252-6020. ERA will approve or non-approve the proposed plan of each electric utility within 120 days of the receipt of each plan. Approval or non-approval of a conservation plan will be based on the entire record of the proceeding, including any comments received during the public comment period provided herein. Notice of Approval or Non-approval of each conservation plan will be published in the **Federal Register.**

DATE: Written comments on any proposed conservation plan identified in the **SUPPLEMENTARY INFORMATION** section of this notice are due on or before September 27, 1982.

ADDRESS: Five copies of written comments shall be submitted to: Case Control Unit, Fuels Conversion Division, Forrestal Building, Room GA-093, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

The name of the subject utility and the identifying case number should be printed on the outside of the envelope and on the documents contained therein.

FOR FURTHER INFORMATION CONTACT:

Clifford Tomaszewski, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-073 F, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-1251;

Henry Garson, Esq., Acting Assistant General Counsel for Coal Regulations, Office of the General Counsel, Forrestal Building, Room 6D-033, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-6947.

SUPPLEMENTARY INFORMATION: Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 (OBRA) amended the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act) by adding a new section 808, entitled "Electric Utility Conservation Plan."

Section 808 requires utilities which own or operate any existing electric powerplant which used natural gas as a primary energy source between August 14, 1980 and August 13, 1981, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to conserve electric energy. The plan must set forth the means to achieve the conservation of electric energy at a level equal to 10 percent of the electric energy output of the utility sold within its own system which was attributable to natural gas during the four calendar quarters ending on June 30, 1981. The plan must be fully implemented during the five year period following DOE approval.

Proposed conservation plans must be submitted to DOE on or before August 13, 1982. DOE will, within 120 days of the receipt of a proposed plan, approve each plan meeting the requirements of 10 CFR 508.8. If a proposed plan, as originally submitted, fails to meet the requirements for approval, DOE will notify the utility submitting the plan by letter, setting forth the reasons therefor, and provide a reasonable time for the submission of a modified conservation plan. If an acceptable modified plan is not submitted within the specified time period, a Notice of Non-approval will be published in the **Federal Register** together with the basis for the determination that the proposed plan fails to meet the requirements of 10 CFR 508.8. The following list of utilities have submitted proposed conservation plans to DOE for approval. Publication of this notice does not constitute approval of such plans.

Utility	FC Case No.	Date filed
City of Lafayette, Department of Utilities, Lafayette, La.	51549-9999-99-49	Aug. 5, 1982.
City of Wellington, Wellington, Kans.	53232-9999-99-49	Do.
Public Utilities Board, Brownsville, Tex.	50549-999-99-49	Do.
Wisconsin Power & Light Co., Madison, Wis.	53332-9999-99-49	Aug. 6, 1982.
Public Service Commission of Yazoo City, Yazoo City, Miss.	53370-9999-99-49	Aug. 9, 1982.
Public Service Co. of New Hampshire, Manchester, N.H.	52411-9999-99-49	Do.
Utilities Commission, City of New Smyrna Beach, New Smyrna, Fla.	52031-9999-99-49	Do.
Illinois Power Co., Decatur, Ill.	52385-9999-99-49	Do.
Southern California Edison Co., Rosemead, Calif.	52721-9999-99-49	Do.
Texas Electric Service Co., Ft. Worth, Tex.	52901-9999-99-49	Do.
* Union Electric Co., St. Louis, Missouri, Missouri Power & Light Co., Missouri Utilities Co.	52997-9999-99-49	Do.
Board of Public Utilities, City of McPherson, McPherson, Kans.	51817-9999-99-49	Do.
Northwestern Public Service Co., Huron, S. Dak.	52117-9999-99-49	Do.
Iowa Public Service Co., Sioux City, Iowa.	51408-9999-99-49	Do.
Municipal Light & Power, Anchorage, Alaska.	50076-9999-99-49	Do.
Florida Power Corp., St. Petersburg, Fla.	51007-9999-99-49	Do.
New Orleans Public Service, Inc., New Orleans, La.	52024-9999-99-49	Do.
Lea County Electric Cooperative, Inc., Lovington, N. Mex.	51612-9999-99-49	Aug. 10, 1982.

Utility	FC Case No.	Date filed
Western Power, Great Bend, Kans.	68007-9999-99-49	Do.
Cajun Electric Power Cooperative, Inc., Baton Rouge, La.	50399-9999-99-49	Do.
Kansas Gas & Electric Co., Wichita, Kans.	51478-9999-99-49	Do.
The Toledo Edison Co., Toledo, Ohio.	52927-9999-99-49	Do.
Lubbock Power & Light, Lubbock, Tex.	51705-9999-99-49	Do.
Montana Power Co., Butte, Mont.	51915-9999-99-49	Do.
Public Works Commission of the City of Fayetteville, Fayetteville, N.C.	62004-9999-99-49	Do.
Boston Edison Co., Boston, Mass.	50300-9999-99-49	Do.
Southwestern Electric Power Co., Shreveport, La.	52744-9999-99-49	Do.
Cincinnati Gas & Electric Co., Cincinnati, Ohio.	50556-9999-99-49	Aug 11, 1982.
Gulf States Utilities Co., Beaumont, Tex.	51209-9999-99-49	Do.
Central Power & Light Co., Corpus Christi, Tex.	50496-9999-99-49	Do.
Salt River Project, Phoenix, Ariz.	52564-9999-99-49	Do.
Rochester Gas & Electric Corp., Rochester, N.Y.	52501-9999-99-49	Do.
Atlantic City Electric Co., Atlantic City, N.J.	50126-9999-99-49	Do.
Baltimore Gas & Electric Co., Baltimore, Md.	50154-9999-99-49	Do.
Pacific Gas & Electric Co., San Francisco, Calif.	52224-9999-99-49	Aug. 12, 1982.
Lamar Utilities Board, Lamar, Colo.	51582-9999-99-49	Do.
City of Pasadena, Pasadena, Calif.	52255-9999-99-49	Do.
City of Lakeland, Lakeland, Fla.	51575-9999-99-49	Do.
Mississippi Power & Light Co., Jackson, Miss.	51887-9999-99-49	Do.
West Texas Utilities Co., Abilene, Tex.	53256-9999-99-49	Do.
Southern Colorado Power, Pueblo, Colo.	67027-9999-99-49	Do.
Public Service Electric & Gas Co., Newark, N.J.	52414-9999-99-49	Do.
New England Power Service, Westborough, Mass.	52007-9999-99-49	Do.
Texas-New Mexico Power Co., Ft. Worth, Tex.	67041-9999-99-49	Do.
Public Service Co., of Oklahoma, Tulsa, Okla.	52413-9999-99-49	Do.
Iowa Electric Light & Power Co., Cedar Rapids, Iowa.	51405-9999-99-49	Do.

* Union Electric Co. is a holding company of Missouri Power & Light Co., and Missouri Utilities.

Issued in Washington, D.C. on August 19, 1982.

Robert L. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-23507 Filed 8-26-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board; Open Meeting

Correction

In FR Doc. 82-22491, appearing at page 36010, in the issue of Wednesday, August 18, 1982, make the following change:

On page 36010, in the third column, in the paragraph headed "Contact:" change the phone number at the end of the paragraph to read "202-252-8990".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[W-9-FRL-2197-4]

Ground Water System of Central Santa Cruz County, California: Request for EPA Determination Regarding Aquifer System

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency has prepared a draft Support Document summarizing the available information on the ground water system and drinking water resources available in the Scotts Valley area of central Santa Cruz County, California; (2) the draft document is available for review; (3) public comments are requested; and (4) a public hearing will be held.

DATES: The public hearing will be held on September 28, 1982, in two sessions, one beginning at 1:30 P.M. and the other beginning at 7:30 P.M. The public is also encouraged to submit written comments but the comments must be received before the close of business on October 5, 1982 at the EPA regional office in San Francisco.

ADDRESSES: Comments on the draft Support Document should be mailed to Nathan Lau, Water Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, California 94105.

The public hearing will be held at Friend's Hall in the New City Hall, 251 Mac Dorsa Drive, Scotts Valley, California.

FOR FURTHER INFORMATION CONTACT: Nathan Lau at the above address or telephone (415) 974-8274. Copies of the draft Support Document are available upon request.

SUPPLEMENTARY INFORMATION: Section 1424(e) of the Safe Drinking Water Act (Pub. L. 93-523) authorizes the Administrator to determine, on his or her own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health. After such a determination is made, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such an aquifer through a recharge zone so as to create a significant hazard to public health.

A petition was submitted by Mr. Al Haynes, chairperson of the Santa Cruz Regional Group of the Sierra Club, P.O. Box 604 , Santa Cruz, CA 95061, requesting the Administrator of EPA to determine that the ground water system in the Scotts Valley area, Central Santa Cruz County, is the sole or principal drinking water source for that area, and that contamination of this source would create a significant hazard to public health.

Notice of receipt of the petition was published in the **Federal Register.** In addition to acknowledging receipt, EPA solicited any comments, data, or references to aditional sources of information which would contribute to the factual record. In particular, EPA sought information relevant to: (a) That portion of the hydrologic system underlying Central Santa Cruz County which should be designated for protection as an aquifer which provides drinking water; (b) the surface boundary of the recharge area for the aquifer, which is the area that would be subject to regulation under this provision; (c) the boundary of the recharge source zone (or any area which drains into the recharge zone and thus contributes to the recharge of the aquifer); (D) the source(s); (e) any current or anticipated Federal financially assisted projects which may cause contamination of the aquifer; and (f) any other information relevant to the determination.

A draft Support Document summarizing the available information

on the ground water and drinking water resources available in the Scotts Valley area has been prepared by EPA. The draft document includes conclusions which will be the basis for the final determination.

Dated: August 19, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 82-23622 Filed 8-26-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51428; TSH-FRL 2196-2]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Subtances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of thirteen PMNs and provides a summary of each.

DATES: Close of Review Period:
PMN 82-570, November 10, 1982.
PMN 82-571, 82-572 and 82-573, November 13, 1982.
PMN 82-574, 82-576, 82-577, 82-578, 82-579, 82-580, 82-581, 82-582 and 82-583, November 14, 1982.
Written comments by: PMN 82-570, October 11, 1982.
PMN 82-571, 82-572 and 82-573, October 14, 1982
PMN 82-574, 82-576, 82-577, 82-578, 82-579, 82-580, 82-581, 82-582, 82-583, October 15, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51428]" 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 82-570

Manufacturer. Confidential.
Chemical. (G) Amino acid modified polyester.
Use/Production. (S) Site-limited coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. None.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-571

Manufacturer. Ashland Chemical Company.
Chemical. G. Orthophthalic anhydride modified unsaturated polyester resin.
Use/Production. (S) General purpose molding resin. Prod. Range: 2,000,000 lbs/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: a total of 2 workers, up to 2 hrs/da.
Environmental Release/Disposal. Disposal by incineration and landfill.

PMN 82-572

Importer. CIBA-GEIGY Corporation.
Chemical. (G) Organophosphorous compound.
Use/Import. (G) Contained use. Import range: Confidential.
Toxicity Data. Acute oral: 810 mg/kg; Acute dermal: >2,100 mg/kg; Skin irritation: Minimal irritation; Eye irritation: Severe irritation.
Exposure. Confidential.
Environmental Release/Disposal. Less than 10 kg/yr released to land. Disposal by incineration.

PMN 82-573

Manufacturer. Confidential.
Chemical. (G) Pentasubstituted pentanamide salt.
Use/Production. (G) Site-limited intermediate. Prod. range: 300-600 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal and inhalation, a total of 10 workers, up to 2 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Minimal release to air. Disposal by incineration.

PMN 82-574

Manufacturer. Confidential.
Chemical. (G) Glycol ester of fatty acids.
Use/Production. (G) Open use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 6 workers, up to 2 hrs/da, up to 12 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 100-1,000 kg/yr to land. Disposal by publicly owned treatment works (POTW) and approved landfill.

PMN 82-576

Manufacturer. Confidential.
Chemical. (G) Unsaturated polyester.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 82-577

Manufacturer. Confidential.
Chemical. (G) Unsaturated polyester.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Do data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 82-578

Manufacturer. Confidential.
Chemical. (G) Unsaturated polyester.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 82-579

Manufacturer. Confidential.
Chemical. (G) Unsaturated polyester.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 82-580

Manufacturer. American Cyanamid Company.
Chemical. (G) Salt of sulfosuccinic diester.
Use/Production. (S) Surfactant. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Dermal, a total of 8 workers, up to 24 hrs/da, up to 24 da/yr.
Environmental Release/Disposal. Minimal release to water and land.

PMN 82-581

Manufacturer. Confidential.
Chemical. (G) N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate.

Use/Production. (S) Lubricant additive. Prod. range: Confidential.

Toxicity Data. Skin irritation: Non-irritant; Eye irritation: Irritant.

Exposure. Manufacture, processing and disposal: dermal, inhalation and eye, a total of 5 workers, up to 6 hrs/da, up to 3 da/yr.

Environmental Release/Disposal. No release.

PMN 82-582

Manufacturer. Confidential.

Chemical. (G) N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate.

Use/Production. (S) Lubricant additive. Prod. range: Confidential.

Toxicity Data. Skin irritation: Non-irritant; Eye irritation: Irritant.

Exposure. Manufacture, processing and disposal: dermal, inhalation and eye, a total of 5 workers, up to 6 hrs/day, up to 3 da/yr.

Environmental Release/Disposal. No release.

PMN 82-583

Manufacturer. Confidential.

Chemical. (G) N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate.

Use/Production. (S) Lubricant additive. Prod. range: Confidential.

Toxicity Data. Skin irritation: Non-irritant; Eye irritation: Irritant.

Exposure. Manufacture, processing and disposal: dermal, inhalation and eye, a total of 5 workers, up to 6 hrs/da, up to 3 da/yr.

Environmental Release/Disposal. No release.

Dated: August 2, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-23345 Filed 8-26-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59098; TSH-FRL 2196-1]

Modified Polycarboxylic Acid Sodium Salt Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: September 13, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-59098]" 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 82-45

Close of Review Period. September 30, 1982.

Importer. Confidential.

Chemical. (G) Modified polycarboxylic acid sodium salt.

Use/Import. (G) The substance will be used in an open use that will release more than 5,000 kg but less than 10,000 kg to the environmental range. Import range: Year: Minimum-5,000 kg to maximum-10,000 kg.

Toxicity Data. No data submitted.

Exposure. Use: dermal, inhalation and eye, a total of 10 workers, up to hrs/da, up to 3 da/yr.

Environmental Release/Disposal. Between 1,000-10,000 kg/yr may be released to land as an industrial waste to landfill.

Dated: August 20, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-23346 Filed 8-26-82; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2196-5]

Availability of Environmental Impact Statements Filed August 16 Through 20, 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# 820551, Draft, COE, NC, Ararat River Flood Damage Reduction, Mount Airy, Surry County, Due: Oct. 12, 1982
- EIS# 820552, Final, COE, TX, Clear Creek Flood Control, Fort Bend/Brazoria/Galveston/Harris Cos., Due: Sept. 27, 1982
- EIS# 820557, Report, COE, NY, Rochester Harbor Operations and Maintenance (R-2) Monroe County, Due:

Department of Commerce:
- EIS# 820558, Final, NOA, NY, Hudson R. Estuarine Sanctuary, Grant, Columbia/Rockland/Dutchess Cos., Due: Sept. 27, 1982

Department of the Interior:
- EIS# 820553, Draft, BLM, UT, Uintah Basin Synfuels Development, Permits, Leases, Right-of-Way, Due: Oct. 19, 1982
- EIS# 820555, Final, BLM, Ak, St. George Basin OCS Oil and Gas Lease Sale #70, Due: Sept. 27, 1982

Department of Transportation:
- EIS# 820465, Final, FHW, PA, I-70/LR1071 Sect. 50 Relocation, Fayette/Washington/Westmoreland Cos., Due: Sept. 27, 1982

Environmental Protection Agency:
- EIS# 820559, Final, EPA, PA, Chalfont-New Britain Area WWT Facilities, Grant, Bucks County, Due: Sept. 27, 1982

Department of Defense, Navy:
- EIS# 820556, Draft, USN, CA, Landing Craft Air Cushion Operational Base, Construction, San Diego, Due: Oct. 12, 1982

Nuclear Regulatory Commission:
- EIS# 820550, Draft, NRC, SC, Catawba Nuclear Station, Units 1 & 2, Operation Licenses, York Co., Due: Oct. 12, 1982

Department of Agriculture:
- EIS# 820554, Draft, AFS, AK, Greens Creek Mining Project, Approval, Tongass National Forest, Due: Oct. 18, 1982
- EIS# 820548, Draft, AFS, WA, Okanogan NF Land/Resource Mgmt., Skagit/Whatcom/Chelan/Okanogan Cos., Due: Nov. 30, 1982
- EIS# 820549, Draft, AFS, WA, Early Winters Ski Site Development, Permit, Okanogan NF, Okanogan Co., Due: Nov. 30, 1982
- EIS# 820547, FSuppl, AFS, OR, Umpqua NF Land Mgmt. Plan/Boulder Creek, Lane/Douglas/Jackson Cos., Due: Sept. 27, 1982

Dated: August 24, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-23619 Filed 8-26-82; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2196-5]

Intent To Prepare an Environmental Impact Statement

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to prepare an Environmental Impact Statement for the Metropolitan Wastewater Management Commission (MWMC) proposed Sludge Management Program.

PURPOSE: In accordance with section 102(2)(c) of the National Environmental Policy Act, EPA has identified a need to prepare an EIS and publishes this Notice of Intent in accordance with 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT: Norma A. Young, EIS Project Officer, Environmental Evaluation Branch (M/S 443), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101–3188, Telephone: (206) 442–1755.

SUMMARY: EPA's Environmental Impact Statement will evaluate the impacts associated with the approval of the proposed sludge management plan and the issuance of grant monies to MWMC for the design and construction of sludge disposal facilities for the Eugene/Springfield, Oregon treatment plant. The alternatives to be evaluated include the "no action" alternative, as well as mechanical treatment methods, land application and combinations of these methods.

SCOPING: A scoping meeting for the purposes of identifying issues to be evaluated in the EIS will be held in the Eugene, Oregon City Council Chambers. The date and time of the meeting will be announced in the local newspapers.

EPA anticipates the draft EIS will be available for public review in approximately six months. Interested persons are encouraged to submit their name and address to the Project Officer for inclusion on the distribution list for the Draft EIS and related public notices.

Dated: August 24, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-23596 Filed 8-26-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Meetings of the Telecommunications Industry Advisory Group and its Steering Committee

Pursuant to Section 10(a)(2) of The Federal Advisory Committee Act (P.L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group scheduled to meet on Tuesday, September 28, 1982, at 9:30 a.m. in Room 856 of the Commission's offices at 1919 M Street, N.W., Washington, D.C. A meeting of the Group's Steering Committee will convene in Room 856 immediately following the above general membership meeting. These meetings will be open to the public. The preliminary agendas are as follows:

Advisory Group Meeting

I. General Administrative Matters.
II. Discussion and Consideration of OCC Petition to Overturn Steering Committee Plant Accounts Proposal.
III. Other Business.
IV. Presentation of Oral Statement.
V. Adjournment.

Steering Committee Meeting

I. General Administrative Matters.
II. Review of Assembly Action.
III. Other Business.
IV. Presentation of Oral Statements.
V. Adjournment.

With prior approval of the Group Chairman, Gerald P. Vaughan, oral statements, while not favored or encouraged, may be allowed if time permits and if the Group Chairman determines that an oral presentation is conducive to the effective attainment of Advisory Group or Steering Committee objectives. Anyone not a member of the Advisory Group and wishing to make an oral presentation should contact Stephen T. Duffy, Group Vice-Chairman (202/634–1509), at least five days prior to the meeting date.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-23530 Filed 8-26-82; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

On August 16, 1982, the Federal Communications Commission 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 are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632–7513. Comments should be sent to Edward H. Clarke, Office of Management and Budget, OIRA, Room 3201 NEOB, 726 Jackson Place, N.W., Washington, D.C. 20503.

Title: Application for Radio Station Authorization in the Safety and Special Radio Service Bureau (Private Radio Bureau)
Form No.: FCC 400
Action: Extension
Respondents: Individuals, Associations, Partnerships, Corporations and Local Government Entities eligible to hold a radio station authorization in the Private Land Mobile Radio Services
Estimated Annual Burden: 66,187 Responses; 397,122 Hours

Title: Supplemental Information for Trunked and Conventional Systems
Form No.: FCC 400–S
Action: Extension
Respondents: Individuals, Associations, Partnerships, Corporations and Local Government Entities eligible to hold a radio station authorization in the Private Land Mobile Radio Services
Estimated Annual Burden: 16,500 Responses; 5,500 Hours.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-23529 Filed 8-26-82; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Definitions and Rules Subcommittee Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of meeting of the Telecommunications Industry Advisory Group (TIAG) Definitions and Rules Subcommittee scheduled to meet on Tuesday, September 14 and Wednesday, September 29, 1982. Both meetings will be open to the public. The September 14th meeting will be held at 9:30 a.m. in the offices of MCI Telecommunications Corporation (1st Floor Meeting Room) at 1133 19th Street NW., Washington, D.C. The agenda is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Discussion of Individual Assignments
IV. Other Business
V. Presentation of Oral Statements
VI. Adjournment

The September 29th meeting will be held at 9:30 a.m. in Suite 1735 at the Ernst & Whinney offices located at 1201 Pacific Avenue, Tacoma, Washington. The agenda is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Discussion of Individual Assignments
IV. Other Business
V. Presentation of Oral Statements
VI. Adjournment

With prior approval of Subcommittee Chairman John Utzinger, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines

that an oral presentation is conductive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Utzinger (203/965-2830) at least five days prior to the meeting date.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-23523 Filed 8-26-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 78-97]

Western Union Telegraph Co., Revisions to Tariffs FCC Nos. 240, 258 et al—Telex and TWX Services

Adopted: August 18, 1982.

Released: August 19, 1982

By the Commission.

1. This investigation concerns the lawfulness of the Western Union Telegraph Company's rates for its Telex and TWX services. On March 10, the presiding Administrative Law Judge (ALJ) issued an Initial Decision in Phase I (FCC 82D-14). Among other things the ALJ found that Western Union's Telex/TWX rate structure was unjustly discriminatory; that Telex/TWX earnings were used to subsidize other Western Union Services; and that it cost Western Union 20 to 25 percent less to provide service to the International Record Carriers (IRCs) than to its non-carrier customers. Moreover, he ordered Western Union to pay refunds to its IRC customers for services provided to them from August 1978 to May 1981. Voluminous exceptions to the Phase I decision have been filed and are now under review by the Commission. Phase II of the proceeding, focusing on the period since May 1981 when Western Union's distance insensitive or "postalized" Telex/TWX rates became effective, has already commenced.[1]

2. Subsequently, on April 8, 1982 the Commission released its Interim Order in Docket No. 82-122 (Interconnection Arrangements Between and Among Domestic and International Record Carriers), 89 FCC 2d 928, implementing the provisions of the recently enacted Record Carrier Competition Act of 1981 (RCCA).[2] It observed there that it had not yet had the opportunity to review the ALJ's initial determination of the cost savings issue in Docket No. 78-97. Citing the Committee Report accompanying the RCCA, which concludes "that there are certain cost savings which are inherent to carrier-to-carrier interconnections * * *",[3] the Commission prescribed an interm 15 percent discount from a carrier's publicly tariffed intra-network rate which will apply to all carriers when performing "terminating" functions. In particular, the Commission applied the discount to: (1) Terminating interconnected domestic calls; (2) initiating and handing off to a second U.S. carrier international outbound calls; and (3) accepting for delivery from another U.S. carrier international inbound calls. 89 FCC 2d at 960.

3. With the interim prescription in Docket No. 82-122 remaining in effect pending resolution of Docket No. 78-97 (or other Commission action), we believe the procedural posture of the instant investigation must be reassessed accordingly. As is by now apparent, resolution of the issues in Phase I of Docket No. 78-97 and Docket No. 82-122 is in large part dependent on the outcome of Phase I. Specifically, the extend to which the Commission adopts the reasoning and conclusions of the ALJ may well have a bearing on the conduct and outcome of Phase II. Although we previously urged that Phase II be concluded expeditiously, we think that in light of the filing of extensive exceptions to the ALJ's Initial Decision the prudent course is to first resolve Phase I in order to create a solid foundation for Phase II hearings and to provide proper guidance to the ALJ and the parties. Ultimiately, this approach should also clarify the rate and division of charges questions, particularly and the IRC discount issue, yet to be finally decided in Docket No. 82-122.[4]

4. Thus, as a matter of resource management and orderly conduct of Dockets Nos. 78-97 and 82-122, all future procedural dates in Phases II of Docket 78-97 shall be deferred pending the Commission's ruling on exceptions to the Initial Decision in Phase I of Docket No. 78-97.

5. Accordingly, it is ordered, that Phase II of Docket No. 78-97 is deferred as set forth above.

6. It is further ordered, that the Secretary shall cause this Memorandum Opinion and Order to be published in the Federal Register.

Federal Communications Commission.

William J. Tricarico.

Secretary.

[FR Doc. 82-23522 Filed 8-26-82; 8:45 am]

BILLING CODE 6712-01-M

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[1] *See* Western Union Telegraph Co., Mimeo No., 000522, released April 30, 1981. An order setting Phase II procedural dates was released by the ALJ on July 29, 1982 (FCC 82M-2333).

[2] The RCCA, Pub. L. 97-130, 95 Stat. 1687, supersedes former Section 222 of the Communications Act. It eliminates the statutory bar on the provision of international record service by Western Union and "requires each record carrier to make available to any other record carrier, upon reasonable request, full interconnection with any facility operated by such record carrier, and used primarily to provide record communications service * * * upon terms and conditions which are just, fair and reasonable * * *"

[3] *See* Energy and Commerce Committee Report of the House of Representatives, Report No. 97-356, 97th Cong. 1st Sess. (December 3, 1981).

[4] *See* The Western Union Telegraph Co., FCC 82-121, released March 23, 1982.

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

August 20, 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 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 is published in the Federal Register. This information contains 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 are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

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)

Request for the addition of a report to an existing report package

1. Report title: Supervisory Supplement 1 (Past-Due, Nonaccrual, and Renegotiated Loans and Lease Financing Receivables) to the Report of Condition and Income

Agency form number: FFIEC 010–015
Frequency: quarterly
Reporters: state member banks
SIC Code: 602pt.
Small businesses are affected.
General description of report: approximately 4,084 responses; approximately 119,702 hours needed to complete the entire Call and Income report package on an annual basis; an average of 29 hours per response; respondent's obligation to reply is mandatory (12 U.S.C. 324); a pledge of confidentiality is promised for Supervisory Supplement 1 up to June 1983 (all other elements of the package are available to the public) cost to the public of the entire Call and Income Report package is approximately $2,394,040; cost to the Federal Government is $333,453; 1 supplement to existing package submitted for approval; the report is not being reviewed under Section 3504(h) of P.L. 96–511.

The Call and Income Report package provides for all state member banks a quarterly summary statement and detailed schedules of assets, liabilities, and capital accounts in the form of a conditioin report, and summary statement and detailed schedule of operating income and expenses, sources and disposition of income and changes in equity capital in the form of an income statement. Banks with foreign offices also provide additional detail on foreign-related assets, liabilities, etc. These data are used for regulatory, supervisory, policy,and analytical purposes. Supervisory Supplement 1 will provide information on past-due, nonaccrual, and renegotiated loans and lease financing receivables.

Board of Governors of the Federal Reserve System, August 20, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82–23510 Filed 8–26–82; 8:45 am]

BILLING CODE 6210–01–M

BankAmerica Corporation; Correction

This notice corrects a previous **Federal Register** document (F.R. Doc. 82–18699) published at page 30107 of the issue for Monday, July 12, 1982. The time specified in the Board's previous order for commencement of a public and formal hearing in the Matter of the Application of BankAmerica Corporation to acquire The Charles Schwab Corporation is hereby revised to 9:30 AM, September 8, 1982. The hearing, which is open to the public, will be conducted before Administrative Law Judge Ernest G. Barnes, at offices of the Board located in the Martin Building, 20th and C Streets NW., Washington, D.C. 20551.

Board of Governors of the Federal Reserve System, August 23, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–23509 Filed 8–26–82; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Norwich-Eaton Pharmaceuticals; Furoxone Suspension; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Norwich-Eaton Pharmaceuticals, Division of Morton-Norwich Products, Inc., providing for use of Furoxone Suspension Veterinary for intrasinus use in treating turkeys for infectious sinusitis. The firm requested withdrawal of approval.

EFFECTIVE DATE: September 6, 1982.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV–218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: Norwich-Eaton Pharmaceuticals, Division of Morton-Norwich Products, Inc., P.O. Box 191, Norwich, NY 13815, is the sponsor of NADA 11–810 which provides for use of Furoxone Suspension Veterinary containing 100 milligrams per milliliter of furazolidone for intrasinus treatment of turkeys for infectious sinusitis.

The application originally became conditionally effective on March 2, 1959. The product is one of several that was the subject of a notice of opportunity for a hearing published on May 13, 1976 (41 FR 19907). By letter dated May 11, 1982, the sponsor requested withdrawal of approval of the NADA because the product is not being manufactured or marketed and waived the opportunity for a hearing under the provisions of 21 CFR 514.115.

Section 514.115(d) (21 CFR 514.115(d)) of the animal drug regulations allows the voluntary withdrawal of an approved NADA. Section 514.115(d) normally does not apply if the holder of the application whose withdrawal has been requested already has been afforded an opportunity for hearing on a proposal to withdraw approval of the NADA. In this case, however, Norwich-Eaton's request is being granted because of the extended time which has elapsed since the notice of opportunity for hearing was published and also because the public interest will be served and the firm's interests will not be prejudiced by the withdrawal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 11–810 and all supplements for Norwich-Eaton's Furoxone Suspension Veterinary is hereby withdrawn, effective September 6, 1982.

Dated: August 19, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82–23295 Filed 8–26–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82F–0227]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of tetrakis [methylene (3,5-di-*Tert*-butyl-4-hydroxyhydrocinnamate)] methane as an antioxidant in surface lubricants used in the manufacture of metallic articles that contact food.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3640) has been filed by Ciba-Geiby Corp.,Three Skyline Drive, Hawthorne, NY 10532, proposing that § 178.3910 *Surface lubricants used in the manufacture of metallic articles* (21 CFR 178.3910) be amended to provide for the use of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane as an antioxidant in surface lubricants used in the manufacture of metallic articles for food contact.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: August 19, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–23505 Filed 8–26–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82F–0245]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in vinylidene chloride homopolymers and copolymers intended for food-contact use.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3618) has been filed by Ciba-Geigy Corp., Three Skyline Drive, Hawthorne, NY 10532, proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in vinylidene chloride homopolymers and copolymers intended for food-contact use.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence suppporting that finding may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 19, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–23504 Filed 8–26–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82F–0228]

DeTer Co., Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that DeTer Co., Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sodium lauryl sulfate as a surfactant on raw agricultural commodities to control respirable and explosive dust.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 1A3549) has been filed by DeTer Co., Inc., 8 Great Meadow Lane, East Hanover, NJ 07936, proposing that § 172.822 *Sodium lauryl sulfate* (21 CFR 172.822) be amended to provide for the use of sodium lauryl sulfate as a surfactant for raw agricutural commodities to control respirable and explosive dust.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: August 19, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–23503 Filed 8–26–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82F–0247]

Gulf Oil Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Gulf Oil Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of zinc dibutyldithiocarbamate as an antioxidant in polypropylene resins.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3642) has been filed by Gulf Oil Corp., P.O. Box 1166, Pittsburgh, PA 15230, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of zinc dibutyldithiocarbamate as an antioxidant in polypropylene resins.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the

Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: August 19, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-23506 Filed 8-26-82; 8:45]

BILLING CODE 4160-01-M

Office of Human Development Services

Federal Council on the Aging; Meeting

Agency holding the meeting: Federal Council on the Aging.

Time and date: Meeting begins at 9:30 AM on Wednesday, September 15, 1982 and ends at 3:00 PM on Thursday, September 16, 1982.

Place: Rooms 303A-305A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Meeting is open to the public.

Contact person: Rita Lowry, Room 309D.2, HHH Building, 245-2451.

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-453, 5 U.S.C. App. 1, Sec. 10, 1976) that the Council will hold a meeting September 15-16, 1982 from 9:30 AM to 5:30 PM and from 9:00 AM to 3:00 PM respectively in Rooms 303A-305A, Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

The agenda will consist of discussions on: the World Assembly on Aging; reauthorization of the Older Americans Act; and activities of the House of Representatives Select Committee on Aging concerning the elderly. A substantial amount of time has been allotted for FCA committee sessions.

Dated: August 23, 1982.

Adelaide Attard,

Chairperson, Federal Council on the Aging.

[FR Doc. 82-23537 Filed 8-26-82; 8:45 am]

BILLING CODE 4130-01-M

Reallotment of Funds

Correction

In FR Doc. 82-23151, beginning on page 36968 in the issue for Tuesday, August 24, 1982, the following changes should be made:

1. The second line of the AGENCY paragraph should read, "Services, HHS."

2. The first and second lines of the SUMMARY paragraph should read, "The Administration on Developmental Disabilities in the Office of".

BILLING CODE 1505-01-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 August 20.

Public Health Service

National Institutes of Health

Subject: Medical Library Resource Improvement Grant Application (0925-0015)—Extension/No Change

Respondents: Medical libraries

OMB Desk Officer: Richard Eisinger

Social Security Administration

Subject: Employer Sick Pay and Plan or System Questionnaire (SSA-7203)—Revision

Respondents: Businesses or other institutions (except farms)

Subject: SSI Quality Review Questionnaire—Disability (SSA-4678)—Reinstatement

Respondents: Individuals or households

Subject: Worksheet for Integrated AFDC, Food Stamps and Medicaid Quality Control Reviews (SSA-4340)—Revision

Respondents: Individuals or households

OMB Desk Officer: Milo Sunderhauf

Office of Human Development Services

Subject: Administration for Native Americans (ANA) Part IV Objective Work Plan—New

Respondents: ANA Grantees; American Indian Tribes, Native American Organizations, Alaska Native Organizations, Native Hawaiian Organizations

Subject: ANA Objective Evaluation Report-New

Resondents: ANA Grantees; American Indian Tribes, Native American Organizations, Alaska Native Organizations, Native Hawaiian Organizations

Subject: ANA Objective Evaluation Report—New

Respondents: ANA Grantees; American Indian Tribes, Native American Organizations, Alaska Native Organizations, Native Hawaiian Organizations

Subject: State Plan on Aging (0980-0044)—Reinstatement

Respondents: State agencies on aging

OMB Desk Officer: Milo Sunderhauf

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: August 20, 1982.

Robert F. Sermier,

Acting Assistant Secretary for Management and Budget.

[FR Doc. 82-23372 Filed 8-26-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Manager; Solar Energy and Energy Conservation Bank

[Docket No. 82-1152]

Availability of Funding Under the Solar Energy and Energy Conservation Bank Act; Solicitation of Proposals

AGENCY: Office of the Manager of the Solar Energy and Energy Conservation Bank, HUD.

ACTION: Notice of Funding Availability and Notice of Solicitation of Proposals from States.

SUMMARY: States are invited to submit proposals to HUD for their participation in the program of the Solar Energy and Energy Conservation Bank. (As used in this Notice, States include the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands). The Bank is interested in achieving the most rapid, effective and innovative use of

the amount of funding now available for its program. Accordingly, the Bank has decided that it will target its program funding to those States which submit innovative proposals for effectively coordinating financial assistance to be made available by the Bank with energy auditing and assistance programs at the State level or the Residential Conservation Service (RCS) Program under the U.S. Department of Energy (DOE).

FOR FURTHER INFORMATION CONTACT: Dr. Richard Francis, Comptroller, Solar Energy and Energy Conservation Bank, Room 2244, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Telephone: 202–755–7166 (This is not a toll-free number).

PROPOSAL DUE DATE: Proposals must be received by 5:00 p.m., on Friday, October 15, 1982. Proposals must be submitted to the attention of Dr. Richard Francis, Comptroller, Solar Energy and Energy Conservation Bank, Room 2244, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Four complete copies of each proposal package are required.

SUPPLEMENTAL INFORMATION: *Solar Energy and Energy Conservation Bank.*

Subtitle A of Title V of the Energy Security Act, Pub. L. 96–294, 12 U.S.C. 3601 *et seq.*, established the Bank which became effective on June 30, 1980. Its declared purpose was to encourage energy conservation and the use of solar energy, and thereby reduce the nation's dependence on foreign sources of energy supplies, by establishing a Solar Energy and Energy Conservation Bank. The Bank was created within HUD. The Bank is governed by a Board of Directors, consisting of the Secretaries of HUD, Energy, Treasury, Agriculture and Commerce, with the Secretary of HUD acting as chairperson. Management and supervision of the affairs of the Bank is vested in the President of the Bank, a position established within HUD, to be filled by an individual appointed by the President of the United States with the advice and consent of the Senate; and by Executive Vice Presidents for Energy Conservation and for Solar Energy, to be appointed by the President of the Bank. The Board of Directors of the Bank has authorized a Manager to head the Bank until a president is appointed.

12 U.S.C. 3607 provides that, subject to other statutory provisions, the Bank may make payments to financial institutions for the purpose of providing financial assistance: (a) To owners of and tenants in existing residential and multifamily residential buildings for the purchase and installation of residential energy conserving improvements in those buildings; (b) to owners who occupy and tenants in existing commercial and agricultural buildings for the purchase and installation of commercial energy conserving improvements; (c) to owners of existing buildings for the purchase and installation of solar energy systems; (d) to builders of newly constructed or substantially rehabilitated residential buildings that will contain solar energy systems; and (e) to purchasers of new or substantially rehabilitated buildings containing solar energy systems. The financial assistance for solar energy systems or energy conserving improvements may be in the form of a reduction in the principal obligation of a loan or the qualifying portion of a loan or a prepayment of the interest otherwise due on such loan or portion of such loan. In the case of an owner of an existing residential building or a tenant in an existing residential or multifamily residential building, the assistance for residential energy conserving improvements may be in the form of a grant.

The Congress has appropriated $21.85 million in FY 1982 for the Bank's program. The appropriation is available through FY 1983. Pursuant to a recent court order (*Dabney et al.* v. *Reagan et al.*, 82 Civ. 2231 CSH, S.D.N.Y., Order dated June 29, 1982), these appropriated funds must be made available for disbursement to qualified applicants as quickly as discharge of the Bank's responsibilities under its authorizing legislation will permit.

Bank's Objectives

The Solar Energy and Energy Conservation Bank intends to promote efficient and effective use of the funding now available for its program consistent with the Bank's statutory responsibilities and the recent court order. The Bank's enabling statute provides for a wide range of possible forms and objectives of assistance that may be provided. The Board of Directors of the Bank has determined that an invitation to States to submit proposals that are within the parameters permitted by the statute, but are based on the experience derived from on-going energy related activities influenced by regional and local needs and priorities, provides the best method of designing an efficient and responsive Bank program. The Bank therefore proposes to target its funding to States which develop innovative techniques for interrelating on-going energy related activities and Bank-provided funding focusing on the low-to-moderate income population for urgently needed energy conserving improvements in single family and two to four dwelling unit residential buildings completed prior to January 1, 1980 and/or financial assistance for passive solar energy systems in newly constructed single family and two to four dwelling unit residential buildings. Programs for larger residential buildings, passive solar energy systems in existing residential buildings, and/or commercial and agricultural buildings may also be considered if proposed with supporting justification establishing the priority for such programs as greater than the Bank's objectives in a particular State.

The Appendix to this Notice sets forth, for planning and pre-implementation purposes, terms and conditions for financial assistance that may be provided by the Bank. While certain of such terms and conditions result from administrative determinations made by the Board, a substantial number thereof are explicit statutory requirements and restrictions. States preparing proposals are advised to refer to the statute itself (particularly 12 U.S.C. 3609–3617) for more complete information as to statutory requirements. The Bank expects that all terms and conditions set forth in the Appendix, including those adopted administratively as well as those required by statute, will apply to assistance provided as a result of proposals made pursuant to this solicitation.

Elements of a State proposal might include, for example: (1) Establishing a State-operated system for distributing Bank-provided funds to lending institutions within the State coupled with appropriate regulatory controls, (2) initiating a program of sub-market interest rate, direct loans by the State to lower-income consumers which defray the cost of energy audit-identified top priority residential energy conserving improvements and which are supported by a revolving fund which leverages moneys provided by the Bank with funds contributed by the State and/or other sources, and/or (3) building upon on-going energy auditing and assistance programs, such an the RCS Program. This program was mandated by Title II of the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, November 9, 1978, as amended by Subtitle B of Title V of the Energy Security Act, Pub. L. 96–294, June 30, 1980, 42 U.S.C. 8211 *et seq.* Final program regulations were issued November 7, 1979, and amended June 25, 1982 (10 CFR Part 456). The basic program covers residential buildings

with one-to-four dwelling units and provides energy audit and other services upon request of a consumer through a participating utility (the program reporting and record keeping requirements have been assigned Office of Management and Budget control number 1904–0040). The Bank believes that States which are targeted for funding on this basis will enhance their capacity and experience to administer streamlined, cost-effective energy conservation and/or solar energy system financial assistance programs as part of their overall community revitalization strategies and will be likely to assume responsibility for the continuation of those programs without regard to the availability of future Bank funding.

Eligible Applicants

Bank funding will be targeted only to States which submit proposals to the Bank's Comptroller in accordance with the requirements of, and by the deadline specified in this notice.

Content of Proposals

Each proposal shall: (1) be in writing;

(2) set forth a narrative description of the techniques proposed to be used to interrelate the State's ongoing energy related activities with Bank-provided funding and relevant local or private resources available, including any promotional activities proposed;

(3) contain a description of any State organizational framework for implementing the techniques proposed including the administrative, managerial or regulatory relationships between involved State organizations and local or private organizations, and identify key personnel, their proposed roles(s), and their qualifications for the job;

(4) indicate the State's general objectives and specific goals, the rationale for the energy conservation and/or solar program(s) proposed, as well as any geographic areas or income groups targeted for priority attention;

(5) provide a proposed timetable for implementation, targeting for an operational system capable of processing applications for financial assistance no later than six months from the date of this Notice;

(6) specify the program level(s) for covered activities, the anticipated sources of funding other than the Bank to achieve these levels, the funding level requested from the Bank and anticipated recipient(s) of Bank funds i.e., lending institutions or State agencies and estimated administrative and promotional expenses, showing how derived;

(7) identify a person or persons who may be contacted to provide further information to, or negotiate with, the Bank's staff and, if required, arrange a presentation before the Bank's Board of Directors concerning the proposal;

(8) identify existing financial assistance programs and provide assurance that the proposed use of Federal funds will not overlap, duplicate, or displace such existing programs;

(9) address quality assurance considerations and proposed activities, e.g., random post-installation inspections; and

(10) be signed by a State official duly authorized for such purpose. Each proposal may, at the State's option:

(1) contain an opinion from the State's chief legal officer as to the proposal's legality;

(2) include commitments or agreements from local and/or private organizations supporting the proposal's feasibility;

(3) reference any adopted ordinances or resolutions of the State legislature implementing the proposal;

(4) provide other supporting information as deemed appropriate; and

(5) identify any exceptions or waivers requested for any provision(s) contained herein, including the Appendix, along with a statement of justification.

Review and Selection of Proposals

Proposals will be reviewed, rated and ranked by the staff of the Bank. Factors to be taken into consideration in assessing proposals are:

(1) Degree to which techniques specified in proposal can be expected to successfully impact upon the problems or issues addressed and achieve the general objectives and specific goals of the Bank and the State;

(2) Degree to which techniques specified in proposal can be expected to increase State's capacity to carry out targeted activities in future years without regard to the availability of further Bank funding;

(3) Extent to which proposal recognizes and accommodates problems and needs of lower-income persons and groups and/or of specific, high priority, geographic areas;

(4) Innovativeness of techniques proposed, particularly with regard to proposed use of existing State, local or private resources of a complementary nature, such as the RCS Program;

(5) Cost-effectiveness of proposal (e.g., percent administrative and promotional expenses of total funds anticipated);

(6) Qualifications established for selection of key State personnel to be involved;

(7) Clarity and thoroughness of proposal;

(8) Reasonableness of estimated timetable for implementation of proposal within 6 months of the date of this Notice;

(9) Adequacy of monitoring procedures to be used and data to be developed to evaluate performance in terms of achievement of objectives and goals;

(10) Extent to which proposal contemplates leveraging of Bank-provided funds with funds to be provided by other sources; and

(11) Experience in other related energy assistance program(s).

Preliminary selections of successful proposals will be made by the Bank's Manager based on staff recommendations. The Bank's Board of Directors will make all final selections. Final selections will be made as soon as practicable and each proposer will be notified of the Board's selections within ten (10) days thereafter.

Regulations

The Bank intends to adopt such regulations as it determines to be necessary for administration of the Bank's program prior to formal program inplementation and prior to authorization of expenditure of funds for financial assistance. Adoption of regulations will be subject to the requirements of the Administrative Procedure Act and Section 7(o) of the Department of Housing and Urban Developing Act. The Bank intends to use this Notice and the Appendix, along with the responses received, as the bases for preparing the regulations. Accordingly, it is expected that preparations to implement programs can begin following final selection and notification in order to expedite program start-up to the maximum extent possible. Any information collection requests in the regulations will be subject to approval by the Office of Management and Budget.

Distribution of Funds

Funds shall be distributed by the Bank in accordance with the terms of successful proposals as approved and selected by the Bank. The Bank reserves the right to negotiate increases or decreases in the amount(s) of funding requested in any proposal, as well as to suggest or request modifications of other aspects of proposals as submitted. The Board also reserves the right to reallocate funds based upon results of program implementation activities and/or market response to programs implemented. It is anticipated that

funding will be provided through cooperative agreements with lines of credit established for authorized expenditures.

Administrative and Promotional Expenses

Administrative and promotional expenses from Bank-provided funding will be limited. Administrative expenses authorized by the Bank shall not exceed 50 percent of total administrative costs or 2 percent of total funding authorized by the Bank, whichever, is less. Promotional expenses authorized by the Bank for the program shall not exceed 1 percent of total funding authorized by the Bank. The Bank will coordinate proposed promotional efforts to avoid any duplication of effort with respect to preparation of materials and use of existing materials where possible.

In accordance with Sec. 3507(g) of the Paperwork Reduction Act, 44 U.S.C. 3507(g); 94 Stat. 2821, the Director of the Office of Management and Budget (OMB) has approved a request from the Acting Chairperson of the Board for expedited clearance of the reporting requirements and those reporting requirements have been approved under OMB No. 2535–00–47, for use for a period of ninety (90) days from the date of this notice. Although the expedited clearance did not permit prior public comment on the reporting requirements, such comment is welcome and may be submitted to Dr. Francis at the above address or to Mr. Robert Neal, OMB, New Executive Office Building, Washington, D.C. 20503.

(Subtitle A, Title V, Energy Security Act; Pub. L. 96–294; 12 U.S.C. 3601 *et seq.*)

Date signed: August 23, 1982.

R. H. Francis,

Controller, Solar Energy and Energy Conservation Bank.

[Docket No. 82–]

Terms and Conditions for Financial Assistance for Planning and Pre-Implementation Purposes

As used in this Appendix, "applicant" and "recipient" refer to the owner or tenant obtaining financial assistance for energy conservation or solar energy measures, rather than to States. "Cost-effective" means that an energy conservation or solar energy measure is likely to result in a dollar savings that exceeds its costs over the life of the measure, without consideration of the financial incentive provided under the programs of the Bank.

1. Eligible conservation measures for one to four dwelling unit residential buildings completed before January 1, 1980, if found to be cost-effective as a result of an on-site energy audit using procedures approved by a State or Federal entity:

(a) Caulking and weatherstripping,

(b) Furnace efficiency modifications including:

(1) Replacement burners, furnaces, boilers, or any combination thereof which, as determined by the Board, substantially increase the energy efficiency of the heating system,

(2) Devices for modifying flue openings which will increase the energy efficiency of the heating system, and

(3) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights,

(c) Clock thermostats,

(d) Ceiling, attic, wall, floor, and duct insulation,

(e) Water heater insulation,

(f) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting window and door materials, and

(g) Devices associated with loan management techniques.

2. Eligible conservation measures for five or more dwelling unit residential buildings, commercial and agricultural buildings completed before January 1, 1980, if found to be cost-effective as a result of an on-site energy audit using procedures approved by a State or Federal entity, (or performed by an energy auditor which is determined to be qualified by a State or local government entity),

(a) Caulking and weatherstripping,

(b) The insulation of the building structure and any systems within the building,

(c) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting window and door systems, glazing, reductions in glass area, and other window and door system modifications,

(d) Automatic energy control systems,

(e) Equipment, associated with automatic energy control systems, which is required to operate variable steam, hydraulic, and ventilating systems,

(f) Furnace, or utility plant and distribution system, modifications including:

(1) Replacement burners, furnaces, boilers, or any combination thereof, which substantially increases the energy efficiency of the heating system,

(2) Devices for modifying flue openings which will increase the energy efficiency of the heating system, and

(3) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights,

(g) Replacement or modification of a lighting system which increases the energy efficiency of the lighting system without significantly increasing the overall illumination of the building (unless such increase in illumination is necessary to conform to any applicable State or local law), and

(h) Energy recovery systems.

3. Eligible solar energy measures for residential, commercial and agricultural buildings, if found to be cost-effective as a result of an energy design analysis (newly constructed or substantially rehabilitated buildings) or an on-site energy audit using procedures approved by a State or Federal entity: Passive solar energy systems based primarily on convection, conduction, or radiant energy transfer (or some combination of these types) and which has the following five recognition factors: (1) A solar collector area, (2) an absorber, (3) a storage mass, (4) a heat distribution method, and (5) a heat regulation device.

4. General financial assistance provisions:

(a) General. The Bank is authorized to make payments to financial institutions for use as financial assistance in the form of reductions of the principal obligations of loans, prepayments of the interest which would otherwise be due with respect to loans, and grants.

(b) Forms of financial assistance for loans.

(1) Except as specified in subsections (2) and (3), financial assistance used in connection with loans may be in the form of either reduction of principal or prepayment of interest, at the discretion of the financial institution.

(2) Reduction of principal shall be the only form of financial assistance used in connection with loans other than standard loans having a fixed interest rate and level monthly payments.

(3) Prepayment of interest shall be the only form of financial assistance used in connection with standard loans for the purchase of a new or substantially rehabilitated residential building containing one or more eligible solar energy systems, but only if the loan has a term of 25 to 30 years.

(c) Reduction of principal. The amount of reduction of the principal obligation of a loan shall be the amount of financial assistance provided by the financial institution.

(d) Prepayment of interest. Prepayment of interest on a loan shall take the form of reduction of the interest rate which would otherwise have been charged. The reduction shall be based on assumptions about the loan including the original term of payment and time of prepayment.

(e) Repayment of loans.

(1) No prepayment penalty. There shall be no penalty imposed on the borrower if the loan is repaid before the end of the term of repayment.

(2) Term of repayment. Unless financial institutions establish shorter terms (but no less than one year) at the request of the borrower, financial assistance may be provided in connection with loans for:

(i) The purchase and installation of energy conservation measures only if the terms of repayment of the loan is not less than five and not more than fifteen years, or

(ii) The purchase and installation of solar energy systems in residential buildings, or the purchase of residential buildings with such systems only if the term of repayment of the loan is not less than five and not more than thirty years.

(3) Repayment to Bank. Financial institutions must repay to the Bank the portion of any prepaid interest which is in excess of the actual interest due on the loan at the time a recipient fails to meet his or her obligation on the loan, except that the Bank will waive the repayment where such excess is less than $100 of the Bank-provided funds. The Bank will also require financial institutions to repay to the Bank the prepaid interest which is in excess of the actual interest due on the loan at the time that the loan is prepaid if it is $100 or more.

(f) Multiple technology loan applications. Recipients may receive financial assistance with respect to a single loan for a combination of eligible solar energy systems and/or energy conservation measures. In general, the amount of financial assistance provided will be the sum of the amounts of financial assistance which would be available for each solar energy system or energy conservation measure if financed by a separate loan.

(g) Limitations on retroactive assistance.

(1) Purchase and installation in existing buildings. Financial assistance shall not be provided in connection with expenditures for purchase and installation of solar energy systems or energy conservation measures in existing buildings if the expenditures were made prior to the date of the application for a commitment for financial assistance.

(2) Purchase from builders. Financial assistance shall not be provided in connection with a loan for the purchase of a building from a builder if permanent financing has been closed prior to the date of the application for a commitment for financial assistance.

(3) New construction by recipient. Financial assistance shall not be provided in connection with expenditures for the purchase and installation of solar energy systems in a building which is newly constructed by the recipient, individually or through the use of one or more contractors, if the recipient has closed permanent financing of the expenditures prior to the date of the application for a commitment for financial assistance or if the expenditures were made prior to the applicable program implementation date.

(h) Terms and conditions of loans similar to unassisted loans. The terms and conditions of loans proposed to be assisted under this program must be comparable to similar unassisted loans at the prevailing market rates provided by financial institutions. Terms and conditions include the interest rate, maturity and any required fees, points or security provisions.

(i) Debarred contractors, suppliers and financial institutions. Contractors, suppliers and fianancial institutions on the Secretary of HUD's consolidated list of debarred, suspended and ineligible contractors and grantees (available from HUD area offices) are prohibited from participation in this program. Such prohibition shall be assured by certification as a prerequisite for participation.

(j) Limitation on proceeds of tax-exempt borrowings. Financial assistance shall not be provided on a loan made from the proceeds of borrowings, if the interest on such borrowings is exempt from Federal taxation

(k) Prohibition against tax credits and financial assistance for same expenditure. As a condition of financial assistance, an applicant shall be required to provide to the financial institution an acknowledgement upon application for financial assistance that receipt of such assistance precludes the recipient from also receiving a Federal income tax credit under 26 U.S.C. § 38 or § 44C for the same expenditure. The applicant will also be required to certify that upon receipt of financial assistance under this program he or she will not claim a Federal income tax credit under 26 U.S.C. § 38 or § 44C for the same expenditure.

(l) Penalties and remedies.

(1) General. Any person (including an applicant or financial institution) who knowingly makes any false statement or misrepresents any material fact with respect to any financial assistance applied for or provided under this program, or fails to make any disclosure or statement required by this program, is subject to a fine of not more than $10,000, or imprisonment for not more than one year, or both, for each offense. Each false statement, material misrepresentation or failure to make a required disclosure or statement shall be a separate offense.

(2) Penalties in this section not exclusive. The penalties provided for in subsection (1) shall be in addition to any civil or criminal fines or penalties applicable under law, including Title 18 of the United States Code and any other applicable provisions of Federal, State or local law.

(3) Other relief. Nothing in this section shall limit any rights of the Bank to recover funds from financial institutions, recipients or any other persons or pursue any other remedies available under law.

(m) Retention or records (including applications, acknowledgements, certifications, completion certificates, sales contracts, invoices and receipts, subject to Office of Management and Budget approval under the Paperwork Reduction Act of 1980).

(1) Financial institution. In addition to any record-keeping requirements in their operating relationship with the Bank, financial institutions shall retain all records related to applications for commitments on financial assistance, for a period of at least three years from the date the financial assistance is provided (or the date of application, if never provided). For assistance provided in the form of prepayment of interest, records shall be kept for eight years from the date financial assistance is provided or three years after repayment of excess interest to the Bank, whichever is less.

(2) Recipients. Recipients shall retain all records pertaining to the application, the commitment, the solar energy system or energy conservation measure(s) for which the commitment was sought, and warranties for a period of at least three years after the financial assistance is provided.

(n) Audit. The Bank, the HUD Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to all records required to be retained for the purpose of audit or other examinations or copying.

(o) Installation certification. A borrower must agree to certify to the financial institution that the borrower has used the proceeds of the loan to purchase and install a passive solar energy system or energy conservation measure(s), or to purchase or construct a new or substantially rehabilitated building with a passive solar energy system, immediately after such purchase

and installation or purchase of a building. This certification shall be made available by the financial institution to the Bank upon request.

5. Energy conservation assistance: (a) Warranties. (1) General. Each contractor or, if the recipient performs the installation, the supplier with whom the recipient contracts shall certify in writing to the recipient that the warranty requirements of this section have been satisfied.

(2) Manufacturer's warranty. The manufacturer shall warrant in writing that the recipient, the contractor who installs the energy conservation measure(s) (ECMS), and the supplier of the ECMS shall be entitled to obtain from the manufacturer within a reasonable period of time and at no charge appropriate replacement parts or materials for those ECMS found within one year from the date of completion of installation to be defective due to materials, manufacture or design. A recipient who finds an alleged defect shall give written notice of the alleged defect to the contractor, supplier or manufacturer within 30 days of his or her discovery thereof. If a defect exists, the manufacturer shall provide replacement parts or materials without charge for either the parts or materials or their transportation to the site of installation of the ECMS.

(3) Supplier's warranty. The supplier shall provide to the recipient a written warranty equivalent to that required under subsection (2). The supplier may satisfy this requirement by an assignment of the manufacturer's warranty required by subsection (2) to the person to whom the ECM is supplied.

(4) Contractor's warranty. The contractor for the installation of an ECM shall warrant in writing to the recipient that any defect in materials, manufacture, design or installation found within one year from the date of completion of installation shall be remedied without charge and within a reasonable period of time. A recipient who finds an alleged defect shall give written notice of the alleged defect to the contractor within 30 days of his or her discovery thereof.

(5) Other law. Nothing in this section shall be deemed to relieve a warrantor under this section from compliance with Federal and State law applicable to warranties to the full extent not inconsistent with the requirements of this section.

(6) No conflict with RCS requirements. In any State with a list of approved contractors and suppliers under State plans required by the RCS, compliance with the requirements of Section 542 of the Energy Security Act, 94 Stat. 741–2, and applicable regulations shall be considered compliance with this section as applied to the purchase and installation of residential ECMS.

(b) Relationship to other Federal programs. No financial assistance shall be provided if the applicant has an outstanding commitment under any of the following Federal assistance programs with respect to the building in which the ECM is to be installed:

(1) HUD. (i) Section 8 Lower Income Rental Assistance for Moderate and Substantial Rehabilitation, 42 U.S.C. 1437f.

(ii) Flexible Subsidy (Troubled Projects) 12 U.S.C. 1715z-1a and 24 CFR Part 219.

(iii) Section 312 Rehabilitation Loans, 42 U.S.C. 1452b.

(2) Farmers Home Administration. Section 515 Direct Loan, 42 U.S.C. 1485.

(3) Department of Energy.

(i) Weatherization Program, 42 U.S.C. § 6863.

(ii) Institutional Conservation (Schools and Hospitals) Program, 42 U.S.C. 6371 *et seq.*

(c) Energy audits. The financial institution shall inform applicants of the availability of residential energy audits, as appropriate, before a loan or grant is made and, for all applications for assistance, the borrower submits to the financial institution a copy of an energy audit performed on the building for which financial assistance is being requested before a loan or grant is made.

(d) Limitation on assistance to tenants. Financial assistance may be provided to tenants only if the owner of the tenant's building and dwelling unit has given written consent to the installation of the ECM(s).

(e) Limitation on assistance to residents of housing cooperatives. Financial assistance may be provided to residents of housing cooperatives only if the cooperative corporation has given prior written consent to the installation of the ECM(s).

(f) Limitation on financial assistance. Financial assistance available will be determined based on energy savings estimated by energy audits, in accordance with tables or procedures to be provided by the Bank, up to the maximum as set forth in subsequent parts of this section.

(g) Maximum financial assistance by loans. (1) Residential buildings of 1 to 4 dwelling units. The maximum amount of financial assistance for eligible ECMs shall not exceed the lesser of amounts as specified below or the amount necessary to prepay all interest on the eligible portion of a loan:

No. of dwelling units	Median area income			
	Less than 80%	80% but less than 100%	100% but less than 120%	120% but less than 150%
1	$1,250	$875	$750	$500
2	2,000	1,400	1,200	800
3	2,750	1,925	1,650	1,100
4	3,500	2,450	2,100	1,440
1 to 4 [1]	50	35	30	20

[1] Maximum percent of cost of measure.

(2) Multifamily residential building (five or more dwelling units): The maximum amount of financial assistance shall not exceed an amount equal to 20 percent of the cost of eligible ECMs, or the sum of $400 times the number of dwelling units in the case of an owner, or $400 in the case of a tenant, whichever is less.

(3) Commercial or agricultural buildings: The maximum amount of financial assistance shall not exceed 20 percent of the cost of eligible ECMs or $5,000, whichever is less, for an owner or tenant.

(h) Maximum financial assistance by grant. Financial assistance may be in the form of a grant for eligible residential ECMs in an amount that does not exceed the "less than 80 percent" column of section (1) or section (2) above, as applicable, for an owner or tenant whose family income does not exceed 80 percent of the median area income, provided that (1) the total cost of the ECM(s) exceeds $250, (2) the owner or tenant certifies to the financial institution that other funds are available to the owner or tenant which when added to the financial assistance being provided will be sufficient to pay the cost of the ECM(s) purchased and installed with such grant, (3) the supplier or contractor who sells or installs the ECM(s) is included on a list provided under section 213(a) of the National Energy Conservation Policy Act, and (4) the owner or tenant agrees to certify to the financial institution that the ECM(s) were purchased and installed, and that the certification would be available to the Bank upon request.

(i) Recipient income limitation. In the case of a loan made to an owner, or tenant in, a residential building, or a tenant in a multifamily residential building, the family income of such owner or tenant shall not exceed 150 percent of the median area income.

(j) Commercial or agricultural building limitation. In the case of a loan made to an owner who occupies or a tenant of a commercial or agricultural building, the gross annual sales of such owner or tenant shall not exceed $1,000,000 during the fiscal year of such owner or tenant

preceding the fiscal year in which such loan is made.

6. Solar energy assistance: (a) Warranties. (1) General. Each contractor or, if the recipient performs the installation, the supplier with whom the recipient contracts shall certify in writing to the recipient that the warranty requirements of this section have been satisfied.

(2) Manufacturer's warranty. The manufacturer shall warrant in writing what the recipient, the contractor who installs the covered products and the supplier of the covered products shall be entitled to obtain from the manufacturer within a reasonable period of time and at no charge appropriate replacement parts or materials for those covered products found within three years from the date of completion of installation to be defective due to materials, manufacture or design. A recipient who finds an alleged defect shall give written notice of the alleged defect to the contractor, supplier or manufacturer within 30 days of his or her discovery thereof. If a defect exists, the manufacturer shall provide replacement parts or materials without charge for either the parts or materials or their transportation to the site of installation of the solar energy system.

(3) Supplier's warranty. The supplier shall provide to the recipient a written warranty equivalent to that required under subsection (2). The supplier may satisfy this requirement by an assignment of the manufacturer's warranty required by subsection (2) to the person to whom the covered product is supplied.

(4) Contractor's warranty. The contractor for the installation of a solar energy system shall warrant in writing to the recipient that any defect in materials, manufacture, design or installation found within one year from the date of completion of installation shall be remedied without charge and within a reasonable period of time. A recipient who finds an alleged defect shall give written notice of the alleged defect to the contractor within 30 days of his or her discovery thereof.

(5) Other law. Nothing in this section shall be deemed to relieve a warrantor under this section from compliance with Federal and State law applicable to warranties to the full extent not inconsistent with the requirements of this section.

(b) Relationship to other Federal programs. No financial assistance shall be provided if the applicant has an outstanding commitment under any of the following Federal assistance programs with respect to a building for which a solar energy system is to be installed:

(1) HUD. (i) Section 235 Homeownership Assistance, 12 U.S.C. 1715z.

(ii) Section 8 Lower Income Rental Assistance for New Construction and Moderate and Substantial Rehabilitation, 42 U.S.C. 1437f.

(iii) Indian Housing, 42 U.S.C. 1437 *et seq.* and 24 CFR Part 805.

(iv) Section 312 Rehabilitation Loans, 42 U.S.C. 1452B.

(2) Farmers Home Administration. Section 515 Direct Loan, 42 U.S.C. 1485.

(3) Department of Energy. (i) Institutional Conservation (Schools and Hospitals) Program, 42 U.S.C. 6371 *et seq.*

(c) Limitation on financial assistance by utilities. No financial assistance shall be provided under this part by a utility for the purchase and installation of a solar energy system in new buildings.

(d) Maximum financial assistance. For any passive solar energy system, the maximum amount of financial assistance to an owner of an existing building for the purchase and installation of such a system or to a purchaser of a newly constructed or substantially rehabilitated building which has such a system may not exceed, for residential buildings, (1) $5,000 for one dwelling unit, (2) $7,500 for two dwelling units, (3) $10,000 for three and four dwelling units; $2,500 times the number of dwelling units in a multifamily building; and $100,000 in the case of a commercial or agricultural building. Additionally, the maximum amount of financial assistance is further limited based on the amount of energy saved by the passive solar energy system. The Bank shall provide tables or procedures to be used in determining the amount of assistance available.

(e) Standards. In the case of a loan for a newly constructed or substantially rehabilitated residential or multifamily building, the purchaser must provide certification that the building meets or exceeds cost-effective energy conservation standards as required by 12 U.S.C. 3613.

(f) Limitation on existing buildings. Financial assistance for passive solar energy systems in existing buildings shall not be permitted unless all energy conservation measures found to be cost-effective as a result of an energy audit, as applicable to building type, are installed or are to be installed in conjunction with the passive solar energy system. A copy of the energy audit performed shall be provided to the financial institution before a loan is made.

7. Median area income: "Median area income" means median family income as determined under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437(f), by the Secretary of HUD with adjustments for smaller and larger families, relative to a four-person base, (available at HUD area offices). All income limitations on recipients of financial assistance shall be in accordance with the previous sentence.

8. Reporting requirements: Participating States shall submit reports to the Bank within 30 days of the six month periods ending March 31 and September 30 beginning with the first such period in which notice of selection is made and continuing until program closeout. The reports shall cover, as a minimum, the following (subject to Office of Management and Budget approval under the Paperwork Reduction Act of 1980):

(a) A summary of the overall program for the reporting period and overall results to date;

(b) Problems encountered and actions taken to resolve them;

(c) Acceptance/objections by industry, local governments, financial institutions, and the public;

(d) The numbers of applicants for and recipients of loans and grants by income category and type of building;

(e) Total costs of energy conservation and solar measures implemented and amounts of subsidies by type of measure;

(f) The estimated energy savings by income category of recipients, building type and type of measure;

(g) The cost-effectiveness of the program in terms of administrative costs, promotional costs, leveraging of funds, energy savings in terms of dollars per barrel of oil equivalent and other measures as may be appropriate; and

(h) Evaluation of the program in terms of achieving scheduled milestones and events and in meeting program goals and objectives.

[FR Doc. 82-23502 Filed 8-26-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Transfer of BIA Day Schools in Alaska to the State of Alaska and Proposed Policy Change on Village Concurrence Requirements, Consultation Meetings; Development and Implementation of Closure Plan for Mt. Edgecumbe and Intermountain Schools, Consultation Meetings; Proposed Change in Schedule of Sequoyah Closure

Notice is hereby given that consultation meetings on the Alaska issues will be held for the purpose of hearing comments from tribal representatives, school boards, parents and other interested parties.

The President's fiscal year 1983 budget proposes to transfer a portion of the twenty (20) Bureau-funded day schools in Alaska to the Alaska State School System and a change is proposed in the Bureau's policy of requiring resolutions indicating village concurrence in such transfers.

During the week of September 13, 1982, consultation meetings will be held in the following villages:

Akiachak, Alaska	Newtok, Alaska
Akiak, Alaska	Nunapitchuk, Alaska
Chefornak, Alaska	Savoonga, Alaska
Chevak, Alaska	Shageluk, Alaska
Cruikshank, Alaska (Beaver)	Shaktoolik, Alaska
Diomede, Alaska	Tetlin, Alaska
Elim, Alaska	Toksook Bay, Alaska
Grayling, Alaska	Tuluksak, Alaska
Kasigluk, Alaska	Tuntutuliak, Alaska
Kipnuk, Alaska	Venetie, Alaska

Dates and locations of the consultation meetings on the implementation plans for closures as proposed in the fiscal year 1983 budget are as follows:

Intermountain—Brigham City, Utah, September 8, 1982

Mt. Edgecumbe—Sitka, Alaska, September 9, 1982

The consultation meetings with the school boards will begin at 10:00 a.m. (local time) at each site. At 1:00 p.m. an open consultation meeting with parents, tribal representatives, community leaders, and other interested parties will be conducted. The following persons should be contacted for the exact location and for additional information:

Emil Kowalczyk (Mt. Edgecumbe and Alaska transfers); Juneau, Alaska; 907/586–7192

Pete Soto (Intermountain); Phoenix, Arizona; 602/241–2320

Elizabeth Holmgren (General information); Washington, D.C.; 202/343–8657

Interested persons may present oral comments or file written statements. All written statements must be received no later than October 1, 1982, in the Office of Indian Education Programs, 18th and C Streets, NW., Washington, D.C. 20240, Attn: Acting Director, Dr. Jerry Jaeger, Code 500.

In addition, the Sequoyah Indian School in Tahlequah, Oklahoma, which had been scheduled for closure at the end of the 1983–84 school year, is now being proposed for closure at the end of the 1982–83 school year. A meeting with the school board and other concerned parties was held at the school on August 6. Those wishing to present further written statements or concerns on this issue are invited to do so. These must be received no later than September 10 at the above address.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM8.

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 82-23478 Filed 8-26-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Otay Grazing Environmental Impact Statement; Notice of Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the Bureau of Land Management, California Desert District, will prepare an Environmental Impact Statement to assess the potential impacts of proposed grazing management for the District's Escondido Project Area, to be known as the Otay Grazing EIS.

DATES: The Draft EIS will be completed in December 1982. The final EIS will be completed in March 1983 with a decision on the action being made in April 1983.

FOR FURTHER INFORMATION CONTACT: Gerald E. Hillier, District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management, California Desert District will prepare an Environmental Impact Statement on a proposed grazing management plan on approximately 115,000 acres of the Escondido Project Area in San Diego and Riverside Counties, California. The document to be known as the Otay Grazing EIS, will analyze anticipated environmental consequences which would result from the implementation of alternative grazing plans proposed by the California Desert District Manager. These alternative plans will incorporate variations in location, seasonal use, and intensity of livestock grazing. The alternatives will be based on issues which were identified by four public meetings which were held in San Diego, Escondido, Los Angeles (Northridge) and Riverside, California, in April 1981. The final EIS is scheduled for completion by March 18, 1983.

Dated: August 9, 1982.

Gerald E. Hillier,

District Manager.

[FR Doc. 82-22871 Filed 8-26-82; 8:45 am]

BILLING CODE 4310-84-M

[ORE 017370]

Oregon; Termination of Proposed Withdrawal and Reservation of Lands

Correction

In FR Doc. 82–22021, published at page 35352, on Friday, August 13, 1982, on page 35353, in the first column, under T. 29 S., R. 44E., in the entry for Sec. 8, "W¼," should have read "W½,".

BILLING CODE 1505-01-M

[OR 11159]

Oregon; Partial Termination of Proposed Withdrawal and Reservation of Lands

Correction

In FR Doc. 82–15156, published on page 24452, on Friday, June 4, 1982, make the following corrections:

1. In the third column, in the line below T. 23 S., R. 7 E., "S½SW¼," should have read "S½SW¼, N½SE¼,".

2. Further down in the same column, under T. 20 S., R. 8E., in the entry for Sec. 20, "NW¼NE¼," should have read "NE¼NE¼,".

BILLING CODE 1505-01-M

Office of the Secretary

Preliminary Certification of No Adverse Impact on Theodore Roosevelt National Park and Lostwood National Wildlife Refuge (Wilderness Portion) Under Section 165(d)(2)(C)(iii) of the Clean Air Act; Reopening of Public Comment Period

AGENCY: Department of the Interior.

ACTION: Notice of reopening of the public comment period on the Federal Land Manager's July 12, 1982 preliminary determination under Section 165(d)(2)(C)(iii) of the Clean Air Act.

SUMMARY: This notice announces a limited reopening of the public comment period on the Federal Land Manager's preliminary determination that five

proposed sources in North Dakota subject to Prevention of Significant Deterioration of air quality requirements will not adversely affect the resources of Theodore Roosevelt National Park and the wilderness portion of Lostwood National Wildlife Refuge. The preliminary determination was published on July 12, 1982 (47 FR 30222). In keeping with its policy to invite full public discussion of the issues and thereafter to make a decision based on the best available information, the Department of the Interior has determined that reopening the public comment period is appropriate so that relevant new information obtained since July 12 may be subjected to public review. The intent of this notice is to alert interested parties to the availability of supplemental information and to solicit comments on that information.

DATE: Comments must be received on or before September 7, 1982.

ADDRESS: *Comments:* Comments should be submitted (in duplicate if possible) to: Chief, Permit Review and Technical Support Branch, National Park Service—AIR, P.O. Box 25287, Denver, CO 80225.

Supporting Documentation: Copies of the supporting documentation are available for public inspection and copying between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday at the following locations: National Park Service, Main Interior Building, Room 3021, 18th and C Streets, N.W., Washington, D.C.; Air Quality Division, 11011 W. Sixth Avenue, Room 306, Denver, CO; and Theodore Roosevelt National Park, Headquarters, Medora, North Dakota. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: John P. Christiano, Air Quality Division, National Park Service—AIR, P.O. Box 25287, Denver, CO 80225, telephone number (303) 234–6620.

SUPPLEMENTARY INFORMATION: The July 12, 1982 (47 FR 30222), preliminary determination that five sources subject to prevention of significant deterioration of air quality requirements will not adversely affect the resources of Theodore Roosevelt National Park and Lostwood National Wildlife Refuge (wilderness portion) in North Dakota was based, among other things, on available air quality data from 1980 and 1981. During the public comment period, the State released air quality data for the first months of 1982. These data were received by the Department on July 30, 1982. They show sulfur dioxide concentrations for January and February much higher than for 1980 or 1981.

The State believes that these high concentrations were temporary, and were caused by flaring hydrogen sulfide gas in a new oil field, the gas from which is now being controlled. The Federal Land Manager has prepared an analysis of this new data and has reached a preliminary determination that the new data do not change the conclusions announced on July 12.

In addition to consideration of the new air quality data, the Federal Land Manager has also performed a revised and expanded visibility analysis, including short-term effects. This analysis is based on additional modeling performed by the State at the request of the Federal Land Manager, and includes consideration of sulfate formation. The Federal Land Manager has reached a preliminary determination that this expanded analysis, as well, does not change the conclusions announced on July 12.

A supplement to the July 12 supporting documentation is available for public inspection and copying. Interested persons are invited to comment on this supplemental information. The Department will reach a final determination based upon review and consideration of comments received. In order not to interfere with the State's ability to comply with deadlines to approve or disapprove the permits, the reopened comment period will close September 7, and will be limited to comments relevant to the new data and expanded analysis.

Dated: August 23, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks, Federal Land Manager of Theodore Roosevelt National Park and Lostwood National Wildlife Refuge/

[FR Doc. 82-23511 Filed 8-26-82; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Jeffrey Hill, at 202–395–7340.

Title: 30 CFR 783 Permit Applications, Minimum Requirements for Legal, Financial, Compliance and Related Information

Bureau Form Number: None

Frequency: Once every five years

Description of Respondents: Coal Mine Operators

Annual Responses: 37,843

Annual Burden Hours: 120,132

Bureau clearance officer: Darlene Grose 202–343–5447

Ann L. Chapman,

Acting Assistant Director, Management and Budget.

August 23, 1982.

[FR Doc. 82-23518 Filed 8-26-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: ARA Services, Inc. ("ARA"), 6th & Walnut Sts., Philadelphia, PA 19106.

2. Wholly-owned subsidiaries which will participate in the operations, and their States of incorporation:

Advertising Services, Ltd.
Aero Carolina, Inc.
Aero Enterprises, Inc.
Aero Enterprises of Philadelphia, Inc.
Aero Kitty Hawk, Inc.
Air La Carte, Inc.
Aluminum Recycling Co., Inc.
AMI Automated Management Information
ARA-DISC, INC.
ARA Environmental Services, Inc.
ARA Healthcare Management, Inc.
ARA Food Service Co.
ARA Health Facilities, Inc.
ARA Health Facilities of Florida, Inc.
ARASERVE Hospital Food Management, Inc.
ARASERVE of Lehigh Valley, Inc.
ARASERVE of Puerto Rico, Inc.
ARASERVE/Slater Corporation
ARASERVE/Slater-Minnesota Corporation
ARA Leisure Services, Inc.
ARA Leisure Convention Services, Inc.
ARA Leisure Services of Texas, Inc.
ARA Maintenance Management Systems, Inc.
ARA Payroll Services, Inc.
ARA Transportation, Inc.
ARA Transportation Services, Inc.
ARA Virginia Sky-Line Co., Inc.
A-R Medical Management, Inc.
ARAClean Services, Inc.

Aratex Services, Inc.
Aratex Textile Rental Services, Inc.
Araven Services Company, Inc.
Arkansas Vending Service, Inc.
Balkt Convalescent Hospital, Inc.
Blalock Nursing Home, Inc.
Blalock Nursing Home-East, Inc.
Blalock Nursing Home-North, Inc.
Blalock Nursing Home-Southwest, Inc.
Blalock Nursing Home-Spring Branch, Inc.
Care Inn, Inc.
Coffee System, Inc.
Comprehensive Nursing Services, Inc.
Correctional Medical Systems, Inc.
Davre's, Inc.
Development Realty Corporation
Driftwood Convalescent Hospitals, Inc.
Driftwood Pharmacy, Inc.
Educare Child Care Centers, Inc.
Encore Service Systems, Inc.
Geriatrics, Inc.
Golden Gate Magazine Company
Ground Services, Inc.
Ground Services, Inc.-St. Croix
Ground Services, Inc. (St. Thomas)
Group Three Advertising, Inc.
H.S.T., Ltd.
Landy Textile Rental Services, Inc.
Mack Bros., Ltd.
Mack Bros. Sales Corp.
Massachusetts A.L.C., Inc.
Meditrans, Inc.
Mesa Verde Company
Mid-Continent News Co., Inc.
Mile High Enterprises, Inc.
MR & R Trucking Company
National Bus Sales and Leasing Co., Inc.
National Child Care Centers, Inc.
National G. South, Incorporated
National Living Centers, Inc.
National Living Centers, Inc. No. 3
Nationwide Health Services, Inc.
Neway Uniform & Towel Supply of Florida, Inc.
NLC Management Company
Pacific Hospital Equipment and Supply Company
Pasadena Medical Pharmacy, Inc.
Pittsburgh Stadium Concessions, Inc.
Rental Uniform Services of Roanoke, Inc.
Resort Concessions, Inc.
Retama Manor Nursing Centers, Inc.
Sigma Marketing Systems, Inc.
Skyline Convalescent Hospital, Inc.
Smith's Transfer Corporation
Spectrum Emergency Care, Inc.
SWV Corporation
Terminal Newsstands, Inc.
Terminal Shops, Inc.
Tocara, Incorporated
Vendors Supply Corp.
Western Medical Enterprises, Inc.

1. Parent corporation and address of principal office: ConAgra, Inc., ConAgra Center, One Central Park Plaza, Omaha, NE 68102.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

1. Ada Grain Company, 876 Grain Exchange Bldg., Minneapolis, MN 55415.
2. Atwood Commodities, Inc., 876 Grain Exchange Bldg., Minneapolis, MN 55415.
3. Atwood-Larson Company, 876 Grain Exchange Bldg., Minneapolis, MN 55415.
4. ConAgra Transportation Co., 5150 West Channel Road, Catoosa, OK 74501.
5. ConAgra Pet Products Company, 3902 Leavenworth St., Omaha, NE 68105.
6. LCM Corporation, 5150 West Channel Road, Catoosa, OK 74501.
7. Lynn Transportation Co., Inc., 712 South 11th St., Oskaloosa, IA 52577.
8. MHC Corporation, One Central Park Plaza, Omaha, NE 68102.
9. OKG Bulkhandling Corp., 5150 West Channel Road, Catoosa, OK 74501.
10. Port ConAgra, Inc., 3750 Washington Ave. North, Minneapolis, MN 55412.
11. United Agri Products, Inc., 419 18th Street, Greeley, CO 80632.
12. Westfeeds, Inc., 406 Fuller Ave., Helena, MT 59601.
13. Banquet Foods Company, One Banquet Plaza, 13515 Barrett Parkway Drive, Ballwin, MO 63011.
14. Balcom Chemicals, Inc., PO Box 1286, Greeley, CO 80631.
15. Bralen Trucking Co., Inc., PO Box 1286, Greeley, CO 80631.
16. Central Valley Chemicals, Inc., PO Box 446, Weslaco, TX 78596.
17. Dixie Ag Supply, Inc., 1801 Old Montgomery Road, Selma, AL 36701.
18. G. S. Operating Corp., 615 Griswold St., Detroit, MI 48226.
19. Growers Service Corp., PO Box 1286, Greeley, CO 80631.
20. Hess & Clark, Inc., 7th and Orange Sts., Ashland, OH 44805.
21. Loveland Industries, Inc., 2307 W. 8th St., Loveland, CO 80537.
22. Mid Valley Chemicals, Inc., PO Box 446, Weslaco, TX 78596.
23. Midwest Agriculture Warehouse, 725 S. Schneider St., Fremont, NE 68025.
24. Moyer Chemical & Equipment Co., PO Box 7, Fremont, NE 68025.
25. Northwest Chemical Corp., 4560 Ridge Road N.E., Salem, OR 97303.
26. Ostlund Chemical Co., 1330 Northwest 40th, Fargo, ND 58102.
27. Platte Chemical Co., 150 S. Main, Fremont, NE 68025.
28. Pueblo Chemical & Supply Co., PO Box 1279, Garden City, KS 67846.
29. Snake River Chemicals, Inc., PO Box 1196, Caldwell, ID 83650.
30. Transbas, Inc., 1525 Lockwood Road, Billings, MT 59101.
31. Tri River Chemical Co., Inc., PO Box 2641, Pasco, WA 99302.
32. Tri State Chemicals, Inc., PO Box 1206, Hereford, TX 79045.
33. Tri-State Delta Chemicals, Inc., PO Box 369, Clarksdale, MS 38614.
34. Westchem Agricultural Chemicals, Inc., 1525 Lockwood Road, Billings, MT 59101.
35. Tri Valley Corp., 13808 "F" Street, Omaha, NE 68137.
36. Yellowstone Valley Chemicals, Inc., 1525 Lockwood Road, Billings, MT 59101.
37. Peavey Company, 730 Second Ave. S., Minneapolis, MN 55402.
38. Alaska Packers Assoc., Inc., PO Box 3326, Bellevue, WA 98009.
39. Sea Alaska Products, Inc.,' 150 Nickerson, Suite 300, Seatttle, WA 98109.
40. Singleton Seafood Company, 5024 Uceta Raod, Tampa, FL 33619.
41. Taco Plaza, Inc., PO Box 179, Bedford, TX 76021.
42. M&R Distributing Co., PO Box E, West Highway 30, Grand Island, NE 68801.
43. Wheelers Distributing Co., PO Box E, West Highway 30, Grand Island, NE 68801.
44. Universal Wholesale, Inc., 730 Second Avenue South, Minneapolis, MN 55402.
45. Peavey Marts, Inc., 730 Second Avenue South, Minneapolis, MN 55402.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-23540 Filed 8-26-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82-21610 beginning on page 34652 in the issue of Tuesday, August 10, 1982, make the following correction:

On page 34656, middle column, in the paragraph for W 1349, Inland River Transportation Corporation, "Union Carbine Corporation" should have read "Union Carbide Corporation".

BILLING CODE 1505-01-M

[Volume No. 290]

Motor Carriers; Permanent Authority Decisions Restriction Removals

Decided: August 20, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC-157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

FF-357 (Sub-2)X, filed August 13, 1982. Applicant: INTERSTATE INTERNATIONAL, INC., 5801 Rolling Road, Springfield, VA 22152. Representative: Marshall Kragen, 1919 Pennsylvania Avenue NW., Suite 300, Washington, DC 20006. Sub 1. Broaden: part (a) used household goods and unaccompanied baggage and part (b) used automobiles to "household goods, baggage, and transportation equipment"; and remove restriction in part (b) to the transportation of export and import traffic.

FF-518 (Sub-1) X, filed August 11, 1982. Applicant: TRANS-GULF FORWARDERS, INC., 120 South Central Avenue, 16th Floor, St. Louis, MO 63105. Representative: Matthew J. Kimutis (same address as applicant). Lead permit: (1) Change one-way to radial authority; (2) remove the restriction "through the use of the facilities of common carriers by water."

MC 135154 (Sub-12) X, filed August 5, 1982. Applicant: BADGER LINES, INC., P.O. Box 2049, Milwaukee, WI 53201. Representative: William P. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Subs 3F, 4F, 6, 7F, and 8F certificates and MC-29990 Subs 2, 3, and 4 permits. Broaden: malt beverages, carbonated beverages, fermented malt beverages, and malt beverages in containers (Subs 3F, 6, 7F, and 8F certificates and Sub 3 permit) to "food and related products"; glass containers, and materials and supplies used in the distribution of glass containers, (except commodities in bulk) (Sub 4F certificate) to "clay, concrete, glass or stone products"; malt beverage containers, and empty malt and carbonated beverage containers (Sub 6 certificate and Sub 3 permit) to "containers"; fertilizer (Subs 2 and 4 permits) to "chemicals and related products"; Cleveland, OH facilities and points in IN located in the Chicago, IL, commercial zone (Sub 3 certificate) to Cuyahoga, Geauga, Lake, Lorain, Medina, and Summit Counties, OH, and Lake and Porter Counties, IN; Streator, IL facilities and St. Louis, MO (Sub 4F certificate) to LaSalle and Livingston Counties, IL, St. Louis, MO and Jefferson, St. Charles, and St. Louis Counties, MO; Columbus, OH, Davenport and Dubuque, IA, Milwaukee, WI facilities and St. Charles and St. Louis, MO (Sub 6 certificate) to Delaware, Fairfield, Franklin, Licking, Madison, Pickaway, and Union Counties, OH, Dubuque, Muscatine, and Scott Counties, IA, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties, WI, St. Louis, MO and Jefferson, St. Charles, and St. Louis Counties, MO; Chicago, Ingleside, South Holland, and Waukegan, IL, Columbus, OH, and St. Louis, MO (Sub 7 certificate) to Cook, Dupage, Kane, Lake, McHenry, and Will Counties, IL, Lake and Porter Counties, IN, Delaware, Fairfield, Franklin, Licking, Madison, Pickaway, and Union Counties, OH, St. Louis, MO, and Jefferson, St. Charles, and St. Louis Counties, MO; Columbus, OH, Janesville and Madison, WI, and St. Louis, MO (Sub 8 certificate) to Delaware, Fairfield, Franklin, Licking, Madison, Pickaway, and Union Counties, OH, Dane and Rock Counties, WI, St. Louis, MO and Jefferson, St. Charles, and St. Louis Counties, MO, and Madison, Monroe, and St. Clair Counties, IL; to radial authority (all above-named certificates); and to between points in U.S. (except AK and HI) under continuing contract(s) with unnamed shippers (all above-named permits); and remove restriction to transportation of traffic originating at/destined to named facilities/points (Subs 4 and 6 certificates).

MC 146712 (Sub-3)X, filed April 5, 1982 and previously noticed in **Federal Register** of May 4, 1982, republished to notice the following omission: Applicant: STEEL CARGO, INC., R.R. 1, Box 81, Sharpsville, IN 46068. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Sub-No. 1F permit: broaden fencing materials, iron, steel, zinc, lead and articles (except in bulk), springs, and construction materials, supplies and equipment (except in bulk) and materials, equipment and supplies (except in bulk), used in the manufacture and distribution thereof, to "metal products," in addition to "construction materials" as previously noticed and authorized by permit served August 4, 1982.

MC 157003 (Sub-1)X, filed August 9, 1982. Applicant: C-A TRANSPORTATION, INC., 2866 E. Newport, Rd., Newport, MI 48166. Representative: Neill T. Riddell, 900 Guardian Bldg., Detroit, MI 48226. Lead: (1) Broaden (a) steel tubes to "metal products"; (b) steel and steel products to "metal products and machinery"; (c) heavy machinery to "commodities the transportation of which because of size or weight requires the use of special equipment"; (d) general commodities (with the usual exceptions) to "general commodities (except classes A and B explosives, household goods, and commodities in bulk)"; (e) dies and die parts, die checking fixtures, die models, hand jigs, tools, patterns and templates when moving in connection with dies to "machinery, leather and leather products, pulp, paper and related products, and rubber and plastic products"; and (f) iron and steel articles to "metal products and commodities the transportation of which because of size or weight requires the use of special equipment"; (2) change one-way to radial authority; (3) remove facilities restrictions and expand cities to county-wide authority: South Lyon, MI (Oakland County), Springdale and Blawnox, PA (Allegheny County), Ashland, KY (Boyd County) and Burns Harbor, Porter County, IN (Porter County); and (4) broaden ports of entry at or near Sault Ste. Marie, MI to ports of entry in MI.

[FR Doc. 82-23544 Filed 8-26-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request

and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-144

Decided: August 19, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 163320, filed August 9, 1982. Applicant: LOREN D. REASONER, 1055 S.E. Wendy Ave., Gresham, OR 97030. Representative: Irene Gebe, 635 S.E. 11th, Portland, OR 97214, (503) 233-5766. 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 163340, filed August 10, 1982. Applicant: ALL CARGO DELIVERY, 550 Trimble Rd., San Jose, CA 95131. Representative: Gregory D. Bergman (same address as applicant), (408)-946-7970. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163350, filed August 11, 1982. Applicant: SCOTT D. CLARK d.b.a., SCOTT CLARK TRUCKING, 18287 S. Fernwood Rd., Molalla, OR 97038. Representative: Scott D. Clark (same address as applicant), (503)-829-8970. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2-196

Decided: August 19, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 732 (Sub-22), filed August 2, 1982. Applicant: ALBINA TRANSFER CO., INC., 4320 N. Suttle Rd., Portland, OR 97217. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, 503-226-3755. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 155302 (Sub-1), filed August 9, 1982. Applicant: MACH FARMS, INC., 1020 South Superior St., Antigo, WI 54409. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719, (608) 273-1003. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163302, filed August 6, 1982. Applicant: B. J. GRAFF d.b.a. FARMERS DISTRIBUTING, 440 E. 100 S., St. George, UT 84770. Representative: J. Ralph Atkin, 60 N. 300 E.—P.O. Box 339, St. George, UT 84770, 801-628-2612. 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 163313, filed August 9, 1982. Applicant: MESSENGER AIR FREIGHT, INC., 303 E. Cermak Rd., Chicago, IL 60616. Representative: Greg Barry (same address as applicant), (312) 326-0901. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 163322, filed August 9, 1982. Applicant: 3 J FREIGHT SERVICE, INC., 16411 Elm Haven Dr., Hacienda Heights, CA 91745. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212, (213) 277-2323. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5-174

Decided: August 18, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 152959 (Sub-2), filed July 27, 1982. Applicant: MOBILE EXPRESS, INC., 6000 Gum Springs Road, P.O. Box 8167, Longview, TX 75067. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255-6279. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) transporting *shipments weighing 100 pounds or less* in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 163318, filed August 9, 1982. Applicant: INTERNATIONAL DISPATCH COMPANY, 811 East Burnside (suite 120), Portland, OR 97214. Representative: John H. King (same address as applicant), (503) 239-9124. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163329, filed August 9, 1982. Applicant: DANIEL H. BARCLAY AND DANIEL R. BARCLAY, d.b.a., DAN BARCLAY & SON, 362 Main Street, Lincoln Park, NJ 07035. 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).

Volume No. OP5–176

Decided: August 19, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 163319, filed August 9, 1982. Applicant: AEA CORPORATION, P.O. Box 3157, Memphis, TN 38103. Representative: Gene Armstrong, (same address as applicant), (501) 732–2942. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163379, filed August 12, 1982. Applicant: DELMER J. JOHNSTON, d.b.a. DELMER JOHNSTON TRUCKING, 1315 NE 6th Pl., East Wenatchee, WA 98801. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, 805–872–1106. 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 163408, filed August 16, 1982. Applicant: WINGS TRANSPORTATION, INC., 717 South 9th St., Omaha, NE 68102. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. 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. 82–23545 Filed 8–26–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwises. Applications for motor contract carrier authority are those where service is for named shipper "under contract."

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1—143

Decided: August 19, 1982.

By the Commission, Review Board No. 1, members, Parker, Chandler, and Fortier. (Member Parker not participating.)

W–390 (Sub-11), filed August 6, 1982. Applicant: WARRIOR & GULF NAVIGATION COMPANY, P.O. Box 11397, Chickasaw, AL 36611. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219–2383, (412) 471–1800. To operate as a *contract carrier*, by water, by towing vessls in the transportation of *LASH and Seabee barges* (loaded and empty), in the performance of genral towage, between the ports and points on the Gulf of Mexico, including the Gulf Intracoastal Waterway, by way of the Gulf of Mexico, the Gulf Intracoastal Waterway and connecting and tributary waterways, under continuing contract(s) with Central Gulf Lines, Inc., and Lykes Brothers Steamship Co., Inc., both of New Orleans, LA; and Waterman Steamship Corporation, of Mobile, AL.

Note.—This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy.

MC 126091 (Sub-26), filed August 12, 1982. Applicant: FRALEY & SCHILLING, INC., c/o General Deliver, Rushville, IN 46173. Representative: Donald W. Smith, PO Box 40248, Indianapolis, IN 46240, (317) 846-6655. Transporting *machinery and metal products*, between points in Rush County, IN; Fayette County, KY; LaCrosse County, WI; and Montgomery County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 130551 (Sub-2), filed August 10, 1982. Applicant: CONNECTICUT MOTOR CLUB, INC., 2276 Whitney Avenue, Hamden, CT 06518. Representative: John H. Peck, Jr., PO Box 1820, 33 Whitney Avenue, New Haven, CT 06508, (203) 787–3517. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in CT, and extending to points in the U.S. (except AK and HI).

MC 135170 (Sub-62), filed August 9, 1982. Applicant: TRI-STATE

ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312)–236–5944. 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 14100 (Sub-1), filed August 12, 1982. Applicant: CALUMET BUS SERVICE, INC., 2323 West 47th Ave., Gary, IN 46408–3699. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317)–846–6655. Transporting *passengers and their baggage,* in the same vehicle with passengers, between points in Lake County, IN, on the one hand, and, on the other, Chicago, IL, under continuing contract(s) with Gary Loopers, of Gary, IN.

MC 142291 (Sub-9), filed August 9, 1982. Applicant: MDI, INC., 6202 Concord Blvd. E., Inver Grove Hts., MN 55075. Representative: Robert P. Sack, PO Box 21–307, Eagen, MN 55121, (612) 452–8770. Transporting *food and related products,* between points in the U.S. (except AK and HI), on the one hand, and on the other, points in MN.

MC 149100 (Sub-18), filed August 13, 1982. Applicant: JIM PALMER TRUCKING, 9730 Derby Drive, Missoula, MT 59801. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202–3357, (303) 892–6700. Transporting *machinery and metal products,* between points in the U.S. (except AK and HI).

MC 149281 (Sub-3), filed August 9, 1982. Applicant: FLEIG LEASING, INC., 1267 Burlington Rd., Roxboro, NC 27573. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with The Bahlsen Company, Ltd., of Cresskill, NJ, and its subsidiaries The Aunties Bakery, of Memphis, TN, and Austin Foods Company, of Cary, NC.

MC 149481 (Sub-3), filed August 9, 1982. Applicant: RITEWAY-WESTERN, INC., 7701 Wilbur Way, Sacramento, CA 95828. Representative: Frank Culy III (same address as applicant), (916) 682–2146. 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 Associated Grocers, Inc., of Seattle, WA, Bi Mart Company, of Eugene, OR, Certified Grocers of California, Ltd., of Los Angeles, CA, Tradewell Stores, Inc., of Kent, WA, United Grocers, Inc., of Portland, OR, and Willamette Industries, Inc., of Beaverton, OR.

MC 150631 (Sub-3), filed August 16, 1982. Applicant: HENRY W. FREDENBERG, LTD., Route 1, 2360 Uphoff Road, Cottage Grove, WI 53527. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719, (608) 273–1003. Transporting (1) *food and related products,* and (2) *lumber and wood products,* between points in the U.S. (except AK and HI), under continuing contract(s) in (1) above with Oconomowoc Canning Co., of Oconomowoc, WI, and in (2) above with Midwest Lumber Associates, of Sun Prairie, WI.

MC 150951 (Sub-15), filed August 9, 1982. Applicant: CRANSTON TRUCKING COMPANY, 1381 Cranston Street, Cranston, RI 029. Representative: Paul M. Overton (same address as applicant), (401) 943–4800. Transporting *textile mill products,* between points in the U.S., under continuing contract(s) with Seville Dyeing Company, Inc., of Woonsocket, RI.

MC 152971 (Sub-2), filed August 13, 1982. Applicant: DEEP SOUTH FREIGHT LINES, LTD., 6308 Boutall Street, Metairie, LA 70003. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103, (817) 332–4718. Transporting *forest products and lumber and wood products,* between points in the U.S., under continuing contract(s) with Crown-Zellerbach Corp., of Bogalusa, LA.

MC 154191 (Sub-1), filed August 16, 1982. Applicant: RALPH E. KOCH, R.R 2, Poseyville, IN 47633. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *building materials, lumber and wood products, machinery, metal products and waste or scrap materials not identified by industry producing,* between points in the U.S. (except AK and HI).

MC 155130 (Sub-4), filed August 12, 1982. Applicant: B & D TRANSPORT, INC., 11621 Kanis Road, Little Rock, AR 72211. Representative: William P. Dalton (same address as applicant), (501) 225–3688. Transporting *general commodities* (except commodities in bulk, household goods as defined by the Commission and Classes A and B explosives), between points in the U.S. (except AK and HI).

MC 159111, filed August 12, 1982. Applicant: JONES WRECKER SERVICE, Highway 78 West, Route 4, Box 593, Hamilton, AL 35570. Representative: C. Harry Green, P.O. Box 547, Hamilton, AL 35570, (205) 921–4175. Transporting *wrecked and disabled vehicles,* between points in Marion, Winston, Franklin, Lamar, Fayette, and Walker Counties, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159751 (Sub-1), filed August 6, 1982. Applicant: PROFESSIONAL TRANSPORT, INC., 1413 East Henrietta Road, Rochester, NY 14623. Representative: Michael A. Wargula, 128 Sherburn Drive, Hamburg, NY 14075, (716) 648–0481. Transporting *electrical equipment and supplies,* between points in Ontario, Livingston, Monroe, and Genessee Counties, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160791, filed August 16, 1982. Applicant: JP'S HAULING, INC., 17A Hillcrest Dr., Glen Head, NY 11545. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415 (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Cousins Metal Industries, Inc., of Oceanside, NY.

MC 161810, filed August 11, 1982. Applicant: M & E MILK TRANSPORT, INC., R.R. 3, Box 243, Middlebury, IN 46540. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180 (703) 442–8330. Transporting (1) *chemicals and related products,* and (2) *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) in (1) above with Miles Laboratories, Inc., of Elkhart, IN, and in (2) with Kidd and Company, Inc., of Ligonier, IN.

MC 162331, filed August 12, 1982. Applicant: MARIANA CORPORATION, P.O. Box 726, New Albany, IN 47150. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204 (317) 638–1301. Transporting *commodities in bulk,* between points in the U.S. (except AK and HI), under continuing contract(s) with Keener Sand & Clay Company, of Columbus, OH.

MC 163290, filed August 12, 1982. Applicant: PEARSALL'S VOYAGEUR TRAVEL, INC., Thunderbird Mall, P.O. Box 1167, Virginia, MN 55792. Representative: Robert S. Lee, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402 (612) 333–1341. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Carlton, Cook, Itasca, Koochiching, Lake, and St. Louis

Counties, MN, and extending to points in the U.S. (except AK and HI).

MC 163330, filed August 6, 1982. Applicant: MOBILE HOME MOVERS, INC., 201 S. 5th St., Murray, KY 42071. Representative: Ricky A. Lamkin (same address as applicant) (502) 753–1737. Transporting *mobile homes,* between points in KY, on the one hand, and, on the other, points in IL, IN, OH, NC, SC, GA, TN, AL, MS, FL, AR, LA, and TX.

MC 163341, filed August 10, 1982. Applicant: HADDON TRAVEL INC., 307 Echelon Mall, Voorhees, NJ 08043. Representative: David Derringer (Same address as applicant) (609) 667–3529. As a broker at Voorhees, NJ, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, between points in PA, on the one hand, and, on the other, points in NJ.

MC 163360, filed August 12, 1982. Applicant: NORTH ARLINGTON VAN LINES, INC., 38 Sherman Ave., North Arlington, NJ 07032. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877 (301) 840–8565. Transporting (1) *household goods and electronic equipment,* between points in NY, NJ and FL, on the one hand, and, on the other, those points in the U.S. in and east of OH, WV, VA, NC, SC, GA and FL, and (2) *engineering models,* between points in NJ, on the one hand, and, on the other, points in the U.S. (including AK but excluding HI).

MC 163361, filed August 12, 1982. Applicant: KEN C. JEDLICKI, DBA JEDLICKI TRUCKING, Route 4, Foley, MN 56329. Representative: Samuel Rubenstein, PO Box 5, Minneapolis, MN 55440 (612) 542–1121. Transporting *machinery,* between points in the U.S. (except AK and HI), under continuing contract(s) with Dairyland Supply, Inc., of Sauk Centre, MN; Eagle Bend Surge, of Eagle Bend, MN; Hatcher Sales & Service, Inc., of Little Falls, MN; Jaros Sales & Service, of Fergus Falls, MN; Lakes Livestock Supply, Inc., of Detroit Lakes, MN; and Uselman Electric, of Wadena, MN.

MC 163370, filed August 12, 1982. Applicant: CERTIFIED WAREHOUSE & TRANSFER CO., 1775 W. 1500 S., Salt Lake City, UT 84104. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110 (801)–531–1777. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in UT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163371, filed August 12, 1982. Applicant: MISS DIXIE EXPRESS, INC., 219 Chestnut Hill, Nashville, TN 37215. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004 (202) 347–8862. *Over regular routes,* transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), (1) between Bristol, VA, and Baton Rouge, LA, from Bristol, VA over U.S. Hwys 11 and 11E to junction U.S. Hwy 70, then over U.S. Hwy 70 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction U.S. Hwy 190, then over U.S. Hwy 190 to Baton Rouge, LA, and return over the same route, and (2) between Bristol, VA, and New Orleans, LA, from Bristol, VA over U.S. Hwys 11 and 11W to junction U.S. Hwy 11, then over U.S. Hwy 11 to New Orleans, LA, and return over the same route, serving all intemediate points and serving those in that part of TN on and east of U.S. Hwy 27 as off-route points, in connection with routes (1) and (2) above. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecesary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 6358.

MC 163420, filed August 16, 1982. Applicant: TRANSPORT RESOURCES, INC., P.O. Box 545, Matawan, N.J. 07747. Representative: Owen B. Katzman, 1828 L St., NW., Suite 1111, Washington, D.C. 20036 (202) 822–8200. Transporting *commodities in bulk,* between points in the U.S. (except AK and HI).

Volume No. OP2–195

Decided: August 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 151693 (Sub-8), filed August 6, 1982. Applicant: SSD DISTRIBUTION SYSTEM, INC., 2514 Bridge Ave., Cleveland, OH 44113. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *such commodities* as are dealt in by distributors of pre-recorded music, books and home entertainment devices, between points in Livingston County, MI, Cleveland, Cincinnati, Columbus, and points in Mahoning County, OH, on the one hand, and, on the other, points in IN, IL, KY, MI, NY, OH, PA, and WV.

Volume No. OP5–172

Decided: August 17, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 79658 (Sub-33), filed August 6, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant) (812) 424–2222. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with McGraw-Edison Company, of Rolling Meadows, IL.

MC 110668 (Sub-5), filed August 6, 1982. Applicant: PEORIA CHARTER COACH COMPANY, 2600 NE. Adams St., Peoria, IL 61603. Representative: Edward D. McNamara, 907 South Fourth, Springfield, IL 62703 (217) 528–8476. Transporting *passengers and their baggage* in some vehicle with passengers, in charter operations, between points in Peoria, Fulton, Marshall, Putnam, Bureau, and LaSalle Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and MI).

MC 134449 (Sub-12), filed August 4, 1982. Applicant: LESTER V. MOZNIK, 14730 66th Ave., Surrey, B.C., Canada V3S 1Z9. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104, 206–622–3220. Transporting *lumber and wood products,* between the ports of entry on the international boundary line between the U.S. and Canada located in WA, ID, and MT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY.

MC 138388 (Sub-16), filed August 6, 1982. Applicant: CHESTER CAINE, JR., d.b.a. CAINE TRANSFER, Box 376, Lowell, WI 53557. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, 608–273–1003. Transporting *chemicals and related products,* between points in WI, on the one hand, and, on the other, points in IA, IN, MI, MN, OH, PA, ND, SD, MO, and NE.

MC 141758 (Sub-12), filed August 9, 1982. Applicant: LYDALL EXPRESS, INC., 615 Parker St., Manchester, CT 06040. Representative: Hugh M. Joseloff, 410 Asylum St., Hartford, CT 06103, (203) 728–0700. Transporting *pulp, paper and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Bunzl Pulp and Paper Sales, Inc., of New York, NY.

MC 142368 (Sub-39), filed August 6, 1982. Applicant: DANNY HERMAN TRUCKING, INC., P.O. Box 55,

Mountain City, TN 37683. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, 213–945–2745. Transporting *such commodities* as are dealt in or used by manufacturers of telephone and communication cable, between Chicago, IL, New York, NY, and points in Clark County, NV, Catawba, Mecklenburg, and Nash Counties, NC, and Brown and Terrant Counties, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147009 (Sub-5), filed August 6, 1982. Applicant: DEAN HUGHS, INC., R.R. #2, New Berlin, IL 62670. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 148678 (Sub-5), filed August 6, 1982. Applicant: McGRATH TRUCKING, INC., 229 Old Elm Street, Mansfield, MA 02048. Representative: Ronald McGrath (same address as applicant), (617) 339–2098. Transporting *chemicals*, between points in the U.S., under continuing contract(s) with Monson Chemicals, Inc., of Leominster, MA.

MC 150148 (Sub-2), filed July 15, 1982 (Previously republished in (republication) the **Federal Register** on August 2 and 13, 1982.) Applicant: KANAWHA CARTAGE COMPANY, 85 East Gay Street, Columbus, OH 43215. Representative: Earl N. Merwin (same address as applicant) (614) 224–3161. Transporting *general commodities* (except commodities in bulk, household goods, and classes A and B explosives), between points in IN, KY, MI, OH, PA, and WV, under continuing contract(s) with Greater South Traffic Service, of Cincinnati, OH. Condition: The person or persons who appear to be in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

Note.—Purpose of republication is to show application is for contract carrier authority.

MC 151789 (Sub-1), filed August 6, 1982. Applicant: EASTERN CARRIERS, INC. P.O. Box 8492 Station A, Greenville, SC 29604. Representative: Eugene M. Malkin, 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 the U.S. (except AK and HI), under continuing contract(s) with GK Technologies, Inc., of Greenwich, CT, and its subsidiaries, Hydrotherm, Inc., Sprague Electric Company, Automation Industries, Inc. and General Cable Company Division, all of Greenwich, CT, and Equipment Company, Inc., of Greenville, SC.

MC 156949 (Sub-1), filed July 14, 1982. Initially published in the **Federal Register** on August 2, 1982. Applicant: SHAW BUS SERVICE, INC., 6523 Baltimore National Pike, Baltimore, MD 21228. Representative: Steven L. Weiman, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in MD and DC and points in its commercial zone, and extending to points in the U.S. (except AK and HI).

Note.—This application is republished to include points in the commercial zone of DC.

MC 161768, filed August 4, 1982. Applicant: HOLMAN–MARRS, INC., 120 N.W. 27, P.O. Box 6821, Moore, OK 73153. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, 405–424–3301.Transporting (1) *metal products*, and (2) *machinery*, between points in AR, LA, OK, TX, and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161798, filed August 2, 1982. Applicant: ASC PACIFIC, INC., 2141 Milwaukee Way, P.O. Box 2075, Tacoma, WA 98401. Representative: W. E. Seliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59807, (406) 543–8369. Transporting *building materials and metal products*, between points in WA, OR, ID, and MT, on the one hand, and, on the other, those points in the U.S. in and west of MT, WY, CO, and NM (except HI).

MC 162248, filed August 6, 1982. Applicant: D.D.F. TRANSPORTATION, INC., 6495 Transit Rd., Bowmansville, NY 14026. Representative: William J. Hirsch, 64 Niagara St., Buffalo, NY 14202, 716–853–0200. Transporting *furniture and fixtures*, between points in the U.S. (except AK and HI), under continuing contract(s) with The Gunlocke Company, Inc. of Wayland, NY.

MC 162318, filed August 6, 1982. Applicant: EMERY OIL COMPANY, INC., d.b.a. EMERY TRANSPORTATION, 6730 Clough Pike, Cincinnati, OH 45244. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *commodities in bulk*, between points in IN, KY, and OH.

MC 163099, filed August 6, 1982. Applicant: COTE DISTRIBUTION SYSTEMS, P.O. Box 23911, San Jose, CA 95153. Representative: Christopher M. Cote, 1515 Washburn Ave., Gilroy, CA 95020, 408–842–7566. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in Santa Clara County, CA, on the one hand, and, on the other, points in Washoe County, NV.

MC 163298, filed August 6, 1982. Applicant: V. C. HOWARD HAY CO., INC., P.O. Box 104, Litchfield, NE 68852. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506, 402–488–4841. Transporting *chemicals and related products*, between points in Lee, and Woodbury Counties, IA, Bannock County, ID, Eddy County, NM, Garfield County, OK, and Wood Country, TX, on the one hand, and, on the other, points in IA, KS, MO, and NE.

Volume No. OP5–173

Decided: August 18, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 44469 (Sub-4), filed August 10, 1982. Applicant: WEST BEND TRANSIT AND SERVICE COMPANY, 105 Forest Avenue, P.O. Box 477, West Bend, WI 53095. Representative: Richard D. Armstrong, 925 Hyland Drive, Stoughton, WI 53589 (608) 873–8929. Transporting *general commodities*, (except classes A and B explosives), between Milwaukee, WI and points in Dodge, Fond du Lac, Ozaukee, Sheboygan and Washington Counties, WI.

MC 86539 (Sub-3), filed August 10, 1982. Applicant: HIPKE TRUCKING, INC., Route 5, Atkinson, NE 68713. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501 (402) 475–6761. Transporting *chemicals and related products*, between points in Caribou County, ID, Lea and Eddy Counties, NM, and points in NE on and north of U.S. Hwy 30, on the one hand, and, on the other, points in the U.S. in and west of OH, KY, TN, and MS.

MC 107229 (Sub-11), filed August 9, 1982. Applicant: AMODIO MOVING, INC., 600 East Street, New Britain, CT 06051. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *automobiles*, between points in the U.S. (except AK and HI).

MC 111289 (Sub-19), filed August 9, 1982. Applicant: RICHARD D. FOLTZ, 613 Hillcroft Ave., Cressona, PA 17929. Representative: S. Berne Smith, P.O. Box

1166, Harrisburg, PA 17108 (717) 232–8000. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in Cumberland County, PA, on the one hand, and, on the other, points in DE, MD, NJ, NY, PA, VA, and DC.

MC 121759 (Sub-3), filed August 9, 1982. Applicant: KIMKRIS TRUCKING CO., INC., 1101 Wright Avenue, Richmond, CA 94804. Representative: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111, 415–986–1414. Transporting *such commodities* as are dealt in or used by a manufacturer of electronic games, home computers, cartridges and related software, between points in Los Angeles, Santa Clara, Almeda, and Santa Cruz Counties, CA, on the one hand, and, on the other, points in IL, TX, and AZ, under continuing contract(s) with Atari, Inc., of Sunnyvale, CA.

MC 123748 (Sub-29), filed August 6, 1982. Applicant: CONNECTICUT LIMOUSINE SERVICE, INC., 1060 State St., New Haven, CT 06511. Representative: Palmer S. McGee, Jr., One Constitution Plaza, Hartford, CT 06103, (203) 278–1330. Over regular routes, transporting *passengers and their baggage* in the same vehicle with passengers, between Middlebury, CT and LaGuardia Airport and John F. Kennedy International Airport, New York, NY, from Middlebury over town roads and access roads to junction Interstate Hwy 84, then over Interstate Hwy 84 to junction Interstate Hwy 684, then over Interstate Hwy 684 to junction Interstate Hwy 287, then over Interstate Hwy 287 to junction Interstate Hwy 95, then over Interstate Hwy 95 to the corporate limits of New York, NY, then over city streets and highways to LaGuardia Airport, and John F. Kennedy International Airport, and return over the same route.

MC 143209 (Sub-24), filed August 9, 1982. Applicant: HOUSTON FREIGHTWAYS, INC., 9988 Wallisville Road, Houston, TX 77013. Representative: C. W. Ferebee, 3910 FM 1960 West, Suite 106, Houston, TX 77068, (713) 537–8156. Transporting *building materials,* between points in the U.S. (except AK and HI).

MC 146478 (Sub-2), filed August 9, 1982. Applicant: ULTIMATE DISTRIBUTION, INC., 50 Executive Drive, Edison, NJ 08817. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. 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 146628 (Sub-12), filed August 11, 1982. Applicant: HUNT SUPER SERVICE, INC., P.O. Box 270, Bradley, IL 60915. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. 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 147209 (Sub-7), filed August 11, 1982. Applicant: QUASAR EXPRESS, INC., 3920 South Western Ave., P.O. Box 40, Sioux Falls, SD 57104. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101–1103, 605–335–1777. Transporting *food and related products,* between points in Plymouth, Sious and Woodbury Counties, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150859 (Sub-2), filed July 30, 1982. Applicant: H & L HOUSEHOLD MOVERS, INC., 408 Old Ritchie Road, Capitol Heights, MD. 20027. Representative: Edward E. Harrison (same address as applicant), (301) 350–8660. Transporting *household goods,* between points in the U.S. (except AK and HI).

MC 151138 (Sub-4), filed August 9, 1982. Applicant: CONTRACT DISTRIBUTION SYSTEM, INC., Reed Hartman Corporation Center, 10921 Reed Hart an Hwy., Suite 331, Cincinnati, OH 45242. Representative: Donald F. Martin (Same address as applicant), 704–394–9300. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 152318 (Sub-6), filed August 10, 1982. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Road, Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transmitting *such commodities* as are dealt in or used by food business houses and drug and variety stores, between points in the U.S. (except AK and HI).

MC 152568 (Sub-5), filed August 9, 1982. Applicant: KISTLER AMELING TRANSPORTATION, INC., 408 East Indiana Street, Kouts, IN 46347. Representative: John I. Ameling (same address as applicant), (219) 766–2257. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Ashland Chemical Company, of Dublin, OH.

MC 154488 (Sub-5), filed August 10, 1982. Applicant: LASLEY TRUCKING COMPANY, INC., Hwy 64 E., P.O. Box 1368, Conway, AR 72032. Representative: John B. Fowlkes, Jr. (same address as applicant), (501) 327–4477. Transporting *lumber and wood products,* between points in AL, AR, FL, GA, LA, MS, MO, OK, TN, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157798 (Sub-1), filed August 4, 1982. Applicant: SENIORTOURS, INC., 308 E. Spicer Avenue, Wildwood, NJ 08260. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC 20036, (202) 466–3892. Transporting *passengers and their baggage* in same vehicle with passengers, in special and charter operations, between points in the U.S., and to operate as a *broker* at points in the U.S., in arranging for the transportation of *passengers and their baggage,* in special and charter operations, between points in the U.S.

MC 57849, filed August 9, 1982. Applicant: STEPHEN M. WILSON, Box 217, Auburn, KY 42206. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101 (502) 781–4446. Transporting *leather products and raw hides,* between points in Logan County, KY, on the one hand, and, on the other, points in WI, MO, MN, NE, IA, IL, and OH.

MC 160028 (Sub-1), filed August 11, 1982. Applicant: ROBERT E. MILLER, d.b.a., WTS TRUCKING, 490 Tacchino St., Reno, NV 89512. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, 702–882–5649. Transporting (1) *commodities in bulk,* (2) *food and related products,* (3) *machinery,* (4) *building and construction materials,* (5) *lumber and wood products,* (6) *petroleum products,* and (7) *automobile parts and accessories,* between points in NV, CA, ID, WA, OR, UT, MT, CO, AK and AZ.

MC 161458, filed August 9, 1982. Applicant: STEVEN L. ARMSTRONG, d.b.a., ARMSTRONG TRANSPORTATION, 1001 Rolling Glen Drive, Marion, IA 52302. Representative: Donald S. Mullins, 1033 Graceland Avenue, Des Plaines, IL 60016, (312) 298–1094. Transporting (1) *lumber and wood products,* (2) *glass or stone products,* and (3) *machinery,* between points in IL, IA, MN, MO, NE, SD, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162159 (Sub-1), filed August 6, 1982. Applicant: ROBERT L. WARNER AND LARRY COCCOMO d.b.a., SILVER EAGLE CHARTER TOURS, 649 North Euclid St., Anaheim, CA 92801. Representative: Robert A. Warner, 11022 Wakefield Ave., Garden Grove, CA

92640, 714–636–0398. As a *broker* at Anaheim, CA in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, between points in AZ, CA, NV, and UT.

MC 162178, filed August 11, 1982. Applicant: WAYNE C. SPICHER, d.b.a., TRIPLE S TRANSPORT, 7993 First Rd., Bremen, IN 46506. Representative: Paul D. Borghesani, 300 Communicana Bldg., 421 So. Second St., Elkhart, IN 46516, 219–293–3597. 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 Acco Industries, Inc., of South Bend, IN.

MC 162619, filed August 11, 1982. Applicant: FRANK ADAIR d.b.a. ADAIR'S TRANSPORT, 502 Avenue M. So., Saskatoon, Saskatchewan, Canada S7M 2K9. Representative: Charles E. Johnson, 220 No. 4th St., Box 2056, Bismarck, ND 58502–2056 (701) 223–5300. Transporting *fertilizers* between ports of entry on the international boundary line between the United States and Canada in ND, MT, ID, and WA, on the one hand, and, on the other, points in ND, SD, MN, IA, WI, NE, MT, WY, and ID.

MC 163328, filed August 9, 1982. Applicant: VALLEY TRANSPORTATION, INC., P.O. Box 72264, Louisville, KY 40272. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602 (502) 223–8244. Transporting *passengers and their baggage* in same vehicle as their baggage, in special and charter operations, beginning and ending at points in Jefferson and Hardin Counties, KY, and extending to points in the U.S.

MC 163338, filed August 10, 1982. Applicant: COMPASS TRAVEL SERVICE, INC., 250 Mayfair Plaza, Hwy. 367 & Parker Road, Florissant, MO 63033. Representative: Josephine Zelenovich (same address as applicant) (314) 355–6400. To operate as a *broker* at St. Louis, MO, in arranging transportation of *passengers and their baggage,* in charter operations, beginning and ending at St. Louis, MO, and points in St. Louis County, MO, and extending to points in the U.S.

MC 163349, filed August 11, 1982. Applicant: AUTO DISPOSAL SERVICE, INC. d.b.a. ALL STAR FREIGHT, 427 No. Curtis Rd., Suite 440, Boise, ID 83706. Representative: Jolly W. Kile, 8820 Goddard Place, Boise, ID 83704, (208) 377–1616. Transporting *waste or scrap material not identified by industry producing, metal products, machinery, lumber, and construction material,* between points in ID, OR, WA, CA, NV, UT, WY, and MT.

Volume No. OP5–175

Decided: August 19, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 114829 (Sub-31), filed August 12, 1982. Applicant: GENERAL CARTAGE COMPANY, INC., P.O. Box 417, Sterling, IL 61081. Representative: Daniel C. Sullivan, 180 N. Michigan, Ave., Suite 1700, Chicago, IL 60601 (312) 263–1600. 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 146239 (Sub-8), filed June 21, 1982. Applicant: INTERNATIONAL FOODS TRANSPORT, INC., Clinton St., Delaware, NJ 07833. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, 212–239–4610. Transporting *glass and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Libby Glass, Division of Owens Illinois, Inc. of Toledo, OH.

MC 146649 (Sub-3), filed Aug. 16, 1982. Applicant: JOHNNY'S TRANSFER CO., INC., 3925 Corporation Circle, Charlotte, NC 28216. Representative: Allan W. Singer, 810 Baxter St., Charlotte, NC 28202, 704–372–4800. Transporting *plastic products,* between Charlotte, NC, Atlanta, GA, and Greenville, SC on the one hand, and, on the other, points in NC, SC, TN, VA, WV, and GA under continuing contract(s) with Sewell Plastics, Inc. of Charlotte, NC.

MC 152318 (Sub-7), filed August 13, 1982. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Rd., P.O. Box 696, Kings Park, NY 11754. 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 the U.S. (except AK and HI), under continuing contract(s) with Ford Motor Company of Dearborn, MI.

MC 158859 (Sub-7), filed August 16, 1982. Applicant: O. DEAN TRANSPORTATION, INC., 406 W. Williamsburg Rd., Sandston, VA 23150. Representative: P. Owen Dean (same address as applicant) (804) 737–7838. Transporting *rubber and plastic products,* between Richmond VA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Acme General Supply, Inc., of Richmond, VA.

MC 158909 (Sub-2), filed August 16, 1982. Applicant: EDWARD G. ALBERINO, JR., d.b.a. E. G.A. FOOD DISTRIBUTORS, 403 Sawmill Road, West Haven, CT 06516. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415 (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Response Graphics—Division of Moore Business Forms, of Stratford, CT.

MC 158999, filed August 12, 1982. Applicant: NORBERT DOERING d.b.a. FARWEST DISPATCH, 205 Logan St., Merrill, WI 54452. Representative: Frank M. Coyne, 25 West Main St., Madison, WI 53703, 608–255–1388. Transporting *windows, window frames, doors and door frames and component parts,* between points in WI, on the one hand, and, on the other, points in WA, CA, AZ, OR, NV, NM, ID, and UT.

MC 162218 (Sub-2), filed August 12, 1982. Applicant: S.J.F. TRANSFER CORP., 11 Suncrest Dr., Dix Hills, NY 11746. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, 703–629–2818. Transporting *furniture and fixtures,* between Martinsville, VA and points in Henry County, VA, on the one hand, and, on the other, points in CT, MA, and RI.

MC 163359, filed August 12, 1982. Applicant: H & K TRANSPORTATION, A DIVISION OF SIAM ENTERPRISES, INC., 8907–120th Ave., Kenosha, WI 53142. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *food and related products* between points in the U.S., under continuing contract(s) with Kenosha Beef International, Inc., and its subsidiary, Birchwood Meat & Provision Co., Inc., both of Kenosha, WI.

MC 163368, filed August 12, 1982. Applicant: WILLARD LEE JOHNSTON, Rural Route No. 1, Box 145, Wilmington, IL 60481. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *farm machinery, parts, and equipment,* between points in the U.S., under continuing contract(s) with Shoup Manufacturing Co., of Bonfield, IL.

MC 163419, filed August 16, 1982. Applicant: AUTOMOBILE CLUB OF MERRIMACK VALLEY, d.b.a. AAA WORLD-WIDE TRAVEL SERVICE, 155 Parker Street, Lawrence, MA 01843. Representative: Richard T. Sawyer (same address as applicant), (617) 681–

9200. To operate as a *broker*, at Lawrence, MA, in arranging for the transportation of *passengers and their baggage*, in special and charter operations, between points in MA, on the one hand, and, on the other, points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-23546 Filed 8-26-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-146N)]

Rail Carrier; Conrail Abandonment in Kankakee County, IL, Corrected Notice of Findings [1]

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Kankakee Bridge (milepost 0.0) and Cincinnati-Kankakee main line (milepost 0.8) in the County of Kankakee, IL a total distance of 0.8 miles effective on March 12, 1982.

The net liquidation value of this line is $7,715. If within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-23541 Filed 8-26-82; 8:45 am]

BILLING CODE 7035-01-M

[AB 57 SDM]

Rail Carriers; Soo Line Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the Soo Line Railroad Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 57 SDM. The Commission on August 18, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 57 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-23542 Filed 8-26-82; 8:45 am]

BILLING CODE 7035-01-M

[AB 18 (SDM)] [1]

Rail Carriers; the Chessie System; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Chessie System and its subsidiaries has filed with the Commission its amended color-coded system diagram map in docket No. AB 18 SDM. The Commission on August 18, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 18 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-23548 Filed 8-26-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on March 5, 1982, Merck and Company, Inc., Merck Chemical Manufacturing Division, P.O. Box 2000, Lincoln Avenue, Attention: Office of the Secretary, Rahway, New Jersey 07065, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Raw Opium (9600)	II
Concentrate of poppy straw (9670)	II

As to the basic classes of controlled substances listed above for which application for registration has been made, any other applicant therefor and any existing bulk manufacturer registered therefor may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Acting Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: August 20, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-23560 Filed 8-26-82; 8:45 am]

BILLING CODE 4410-09-M

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[1] Corrected to show the correct mileage and locations being authorized.

[1] AB 18 (SDM), The Chesapeake and Ohio Railway Company, AB 19 (SDM), The Baltimore and Ohio Railroad Company, and AB 69 (SDM), The Western Maryland Railway Company.

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 16, 1982–August 20, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision, have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–12, 884; Armstrong Rubber Co., Southeastern Div., Madison, TN

TA–W–12, 983; Stride Rite Footwear, Inc., Lawrence, MA

TA–W–12, 736; Clinton Mills of Geneva, Geneva, AL

TA–W–12, 744; Sanchez Enterprises, General Metal Fabracators, Inc., Gray, TN

TA–W–12, 816; Sanchez Enterprises, General Metal Fabracators, Inc., Erwin, TN

TA–W–12, 761; Century Glove, Inc., Newark, NJ

TA–W–12, 589; R & K Originals, Div., of Jonathan Logan, Inc., New York, NY

TA–W–12,809; Wolverine Fabricating & Manufacturing Co., Blacksburg, VA

TA–W–13,073; Main Street Fashions, New York, NY

TA–W–13,058; New England Drawn Steel Co., Inc., Mansfield, MA

TA–W–13,050; Mold-A-Matic, Inc., Madison Heights, MI

TA–W–13,024; Norton Laboratories, Inc., Lockport, NY

TA–W–13,049; Marline Undergarments Co., Bronx, NY

TA–W–13,081; Mitchell Manufacturing Co., Inc., Corinth, MS

TA–W–13,009; Kokanee Cedar Sales, Inc., Naples, ID

TA–W–12,802; Lady Elizabeth Sportswear Corp., New York NY

TA–W–12,865; Bakers Park Mining & Milling Co., Silverton, CO

TA–W–12,482; London Knitting Mills, Brooklyn, NY

TA–W–12,981; Ray-O-Vac Corp., South Williamsport, PA

TA–W–12,607; Lactona Corp., Philadelphia, PA

TA–W–12,638; General Refractories Co., Claysburg, PA

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–12,801; Kravex Manufacturing Co., Miami, FL

TA–W–13,078; Wheeling Pittsburgh Steel Corp., Fallansbee, WV

TA–W–12,772; Aberdeen Sportswear, Inc., Trenton, NJ

TA–W–12,778; Mercer Coat Co., Trenton, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–13,054; Amstar Corp., Spreckels Sugar Div., Factory #1, Spreckels, CA

Aggregate U.S. imports of refined sugar did not increase as required for certification.

TA–W–13,101; Evans-Hampden Shoe Corp., Hampden, ME

The investigation revealed that criterion (2) has not been met. Sales and production increased during the period under investigation.

Affirmative Determinations

TA–W–12,970; ESS, Inc., Sacramento, CA

A certification was issued in response to a petition received on September 8, 1981 covering all workers separated on or after January 1, 1981.

TA–W–12,451; Juliet Footwear Co., Inc., Elmwood Park, NJ

A certification was issued in response to a petition received on March 9, 1981 covering all workers separated on or after May 2, 1981 and before March 31, 1982.

TA–W–12,798; A.C. Modes, New York, NY

A certification was issued in response to a petition received on June 15, 1981 covering all workers separated on or after June 9, 1980.

TA–W–13,095; General Electric Co., Portsmouth, VA

A certification was issued in response to a petition received on November 12, 1981 covering all workers producing monochrome television receivers, separated on or after October 3, 1981 and before July 3, 1982.

TA–W–12,561; American Pillow Co., Inc., Lowell, MA

A certification was issued in response to a petition received on March 30, 1981 covering all workers separated on or after November 21, 1980.

TA–W–12,976; Felix Play Time, Inc., New York, NY

A certification was issued in response to a petition received on September 9, 1981 covering all workers separated on or after September 12, 1980 and before May 15, 1981.

I hereby certify that the aforementioned determinations were issued during the period August 16, 1982—August 20, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 24, 1982.

Robert Carpenter,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 82–23563 Filed 8–26–82; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 7, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 7, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C., this 23rd day of August, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bridon American Corp. (company)	Exeter, PA	8/17/82	8/10/82	TA-W-13,725	Wire, wire rope and sling and assembly units.
Bridon American Corp. (company)	Kingston, PA	8/17/82	8/10/82	TA-W-13,726	Warehouse (wire, wire rope sling and assembly units).
Brookfield Athletic Shoe Co., Inc. (company)	Brookfield, MA	8/17/82	8/13/82	TA-W-13,727	Footwear, athletic.
CF & I Steel Corp. & (USWA)	Pueblo, CO	8/17/82	8/11/82	TA-W-13,728	Wire products, nails, tubes, structurals and basic steel.
H.K. Porter Co., Inc. (USWA)	Prospect Park, PA	8/17/82	8/11/82	TA-W-13,729	Wire, round rod, shapes, plates, hexagon.
International Shoe Co. (USWA)	Hopkinsville, KY	8/17/82	8/10/82	TA-W-13,730	Shoes, men's.
Martha Manning Corp. (workers)	Collinsville, IL	8/17/82	8/12/82	TA-W-13,731	Blouses, jackets, pants and skirts—ladies'.
Modulus Corp., R.M. Form Products (USWA)	Gary, IN	8/17/82	8/11/82	TA-W-13,732	Fasteners, industrial.
Pence Springs Manufacturing Co. (workers)	Pence Springs, WV	8/16/82	8/9/82	TA-W-13,733	Rainwear—men's and boys'.
Pyramid Manufacturing Co. (workers)	Brownsville, TX	8/18/82	8/12/82	TA-W-13,734	Rigs, drilling and masts.
Stride Rite Corp. (workers)	Newburyport, MA	8/17/82	8/12/82	TA-W-13,735	Soles, shoe.
U.S. Steel Corp., Fairless Works. (USWA)	Trenton, NJ	8/17/82	8/11/82	TA-W-13,736	Wire rope and wire products.
U.S. Steel Corp. Tubing Specialities Div. (USWA)	Gary, IN	8/17/82	8/11/82	TA-W-13,737	Pipe mill.

[FR Doc. 82-23562 Filed 8-26-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,206]

Bomar Crystal Company, Middlesex, N.J.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 8, 1982 in response to a worker petition received on January 26, 1982 which was filed on behalf of workers at Bomar Crystal Company, Middlesex; New Jersey.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 19th day of August 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-23561 Filed 8-26-82; 8:45 am]

BILLING CODE 4510-30-M

United States Employment Service; Labor Certification Process for the Temporary Employment of Aliens in Agriculture: Adverse Effect Wage Rates

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Administrator, U.S. Employment Service, announces adverse effect wage rates, that is, the minimum wage rates which the Department of Labor has determined must be offered and paid to U.S. and alien workers by employers of temporary alien agricultural workers. Adverse effect wage rates are established and set to prevent the employment of these aliens from adversely affecting the wages of similarly employed U.S. workers.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Carter (Telephone: 202-376-6292).

SUPPLEMENTARY INFORMATION:

Requirement of Notice

The Department of Labor (DOL) has published regulations at 20 CFR Part 655, Subpart C, for the certification of nonimmigrant aliens for temporary employment in the United States in agriculture and logging. In pertinent part, these regulations require the Administrator, United States Employment Service (USES), to cause a notice to be published in the **Federal Register** annually, announcing the adverse effect wage rates (AEWRs) for agricultural workers (except sheepherders) in thirteen States and for sugar cane workers in Florida. 20 CFR 655.207. Since 1968, these special AEWRs had been computed by adjusting the previous year's AEWRs by the changes in the applicable wage rates for field and livestock workers as surveyed by the United States Department of Agriculture (USDA). See 41 F.R. 25018 (June 22, 1976). The regulations at 20 CFR 655.207(b)(1) provide for the use of this USDA data. However, in July 1981 USDA changed substantially the method by which it surveys and compiles such data. Consequently, the current USDA data available for computing AEWRs is no longer appropriate.

In recent years, ETA has considered several methodologies regarding the use of special AEWRs and the Department is reopening that rulemaking process to obtain additional public comment. However, more time is needed and the AEWRs published in 1981 continue in effect as indicated in the table below until such time as a final determination regarding the methodologies for computing AEWRs can be made.

Agricultural Adverse Effect Wage Rates

The AEWRs, continued from 1981, are published in the table below:

AGRICULTURAL ADVERSE EFFECT WAGE RATES

States	Rates
Arizona	$3.87
Colorado	3.93
Connecticut	3.35
Florida (sugar cane only)	4.69
Maine	3.44
Maryland	3.80
Massachusetts	3.35
New Hampshire	3.59
New York	3.48
Rhode Island	3.35
Texas	3.97
Vermont	3.54
Virginia	3.81

AGRICULTURAL ADVERSE EFFECT WAGE RATES—Continued

States	Rates
West Virginia	3.62

Signed at Washington, D.C., this 25th day of August, 1982.

Richard Gilliland,

Administrator, U.S. Employment Service.

[FR Doc. 82-23625 Filed 8-26-82; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Panel—Jazz Organizations; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Jazz Organizations) to the National Council on the Arts will be held on September 13 and 14, 1982 from 9:00 a.m. to 6:00 p.m., September 15 and 16, 1982 from 9:00 a.m. to 5:30 p.m. and September 17 and 18, 1982 from 9:00 a.m. to 6:00 p.m. in room 1422 in the Columbia Plaza Office Complex, 2401 E St., NW., Washington, D.C.

A portion of this meeting will be open to the public on September 16, 1982 from 10:00 a.m. to 5:30 p.m. and September 17 and 18, 1982 from 9:00 a.m. to 6:00 p.m. to discuss Guidelines; Management and Technical Assistance; Pilot Project for Ensembles; Kennedy Center project; Resource Guide for Jazz Organizations; Oral history and archival project.

The remaining sessions of this meeting on September 13 and 14, 1982 from 9:00 a.m. to 6:00 p.m., September 15, 1982 from 9:00 a.m. to 5:30 p.m. and September 16, 1982 from 9:00 a.m. to 10:00 a.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

August 24, 1982.

[FR Doc. 82-23539 Filed 8-26-82; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Subcommittee for Computer Science of the Advisory Committee for Mathematical and Computer Sciences; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for Computer Science of the Advisory Committee for Mathematical and Computer Sciences

Date and time: September 14 and 15, 1982—9:00 a.m. each day

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550

Type of meeting: All Sessions Open—09/14 OPEN 9:00 a.m. to 5:00 p.m., 09/15 OPEN 9:00 a.m. to 3:00 p.m.

Contact person: Mr. Kent K. Curtis, Head, Computer Science Section, Room 339, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 357-9747. Anyone planning to attend this meeting should notify Mr. Curtis no later then 09/10/82.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Computer Science.

Summary minutes: May be obtained from the contact person at the above address.

Tuesday, September 14, 1982—9:00 a.m. to 5:00 p.m.—Open

9:00 a.m.—Introductory Remarks, Mr. Kent K. Curtis
9:15 a.m.—Remarks by Division Director, MCS, Dr. E. F. Infante
10:00 a.m.—Remarks by Assistant Director, MPS
10:45 a.m.—Break
11:00 a.m.—Status Report on Computer Science Section, Mr. Kent K. Curtis
12:00 Noon—Lunch
1:30 p.m.—Status Report on CSNET, Dr. Lawrence H. Landweber
2:30 p.m.—Status Report on MOSIS, Dr. Bernard Chern, Dr. John R. Lehmann and Dr. Andrew R. Molnar
3:15 p.m.—Break
3:30 p.m.—Discussion of Support Priorities, Dr. John C. Cherniavsky

Wednesday, September 15, 1982—9:00 a.m. to 3:00 p.m.—Open

9:00 a.m.—Chairman's Items, Dr. Alfred V. Aho
10:00 a.m.—Evaluation Procedures for CER Proposals, Mr. Kent K. Curtis
12:00 Noon—Lunch
1:30 p.m.—Committee Business
2:00 p.m.—Discussion of Applied Research Support by NSF, Dr. Thomas A. Keenan
3:00 p.m.—Adjourn.

Dated: August 24, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82-23531 Filed 8-26-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-317 and 50-318]

Baltimore Gas & Electric Co.; Calvert Cliffs Nuclear Power Plant Unit Nos. 1 and 2

Exemption

I

The Baltimore Gas and Electric Company (the licensee) is the holder of Facility Operation License Nos. DPR-53 and DPR-69 which authorize operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2. These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises two pressurized water reactors at the licensee's site located in Calvert County, Maryland.

II

On November 19, 1980, the Commission published a revised 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Appendix R, Section III.G.2.a, requires that cables, equipment, and associated circuits of redundant systems and components important to safe shutdown be separated by 3-hour rated fire barriers.

By letter dated, March 19, 1981, the licensee requested an exemption from Section III.G. of Appendix R to 10 CFR Part 50 to the extent that it requires approved fire door assemblies for the protection of personnel access openings in 3-hour rated fire boundaries. As an alternative, the licensee has proposed the use of non-rated watertight doors, bullet proof doors, and water curtains in specified plant areas.

By letters dated February 18, 1982, April 6, 1982, April 29, 1982, June 8, 1982, and July 16, 1982 the licensee provided information to justify that the level of protection afforded by the proposed alternative is equivalent to that required

by Appendix R. The specific plant areas affected by this exemption request are contained in Attachments 1 and 2 for Calvert Cliffs Unit 1 and Unit 2, respectively.

The licensee has based this exemption request on the test report dated February 1982, "Fire Evaluation of Doors and a Water Curtain," Southwest Research Institute project number 01-6763-201. This report shows that watertight doors, bullet proof doors, and water curtains of the type proposed, successfully passed a 3-hour fire test conducted in accordance with test method ASTM E-119, an acceptable method of demonstrating fire resistance. The licensee has also performed hydraulic analyses submitted by letters dated April 6, 1982 and July 16, 1982 which verify that with the existing sprinkler piping arrangement, the minimum water pressure at the most remote doorway water curtain, under maximum flow conditions, is equal to or greater than that maintained during the ASTM E-119 fire tests.

We have evaluated the February 1982 test report and the supplemental information provided and agree that the proposed alternatives provide a level of fire protection equivalent to the 3-hour rated barrier, in that fire will not propagate to redundant trains. We therefore conclude that the level of fire protection provided by the watertight doors, bullet proof doors, and water curtains is equivalent to the level of protection required by the technical requirements of Appendix R to CFR Part 50, and therefore, the licensee's request to be exempted from the requirement to provide 3-hour fire rated barriers for the areas described in Attachments 1 and 2, herein, should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemption with respect to the requirements of section III.G.2 of Appendix R to CFR Part 50:

The licensee may utilize the proposed alternatives to the requirement for maintenance of 3-hour fire rated barriers. The proposed alternatives and locations of their use are contained in Attachments 1 and 2, herein.

The NRC staff has determined that the granting of this Exemption 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.

Dated at Bethesda, Maryland this 16th day of August, 1982.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Acting Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Attachment 1.—Calvert Cliffs Unit 1, Alternative Fire Barriers

Boundary Provides Separation Between and Proposed Alternative

(1) ECCS pump room (118) and corridor (100)—Watertight doors (Door Nos. 109 and 110)
(2) ECCS pump room (119) and corridor (100)—Watertight doors (Door Nos. 111 and 112)
(3) Electrical Equipment room (430) and Computer Room (431)—Bullet proof door (Door No. 432)
(4) Charging pump room (115) and corridor (100)—Water curtain
(5) Recirculation Piping Tunnel (123) and piping area (224)—Water curtains
(6) ECCS pump room (119) and CCW pump room (228)—Water curtain
(7) Recirculation Piping Tunnel (122) and piping area (224)—Water curtain
(8) ECCS pump room (118) and hot machine shop (223)—Water curtain
(9) Fan room (225) and piping area (224)—Water curtain
(10) Fan room (225) and service water pump room (226)—Water curtain
(11) CCW pump room (228) and corridor (200)—Water curtains

Attachment 2.—Calvert Cliffs Unit 2, Alternative Fire Barriers

Boundary Provides Separation Between and Proposed Alternative

(1) ECCS pump room (102) and corridor (100)—Watertight doors (Door Nos. 104 and 105)
(2) ECCS pump room (101) and corridor (100)—Watertight doors (Door Nos. 102 and 103)
(3) Electrical equipment room (407) and Computer Room (406)—Bullet proof door (Door No. 408)
(4) Recirculation Piping Tunnel (121) and piping area (203)—Water curtains
(5) ECCS pump room (101) and CCW pump room (201)—Water curtain
(6) ECCS pump room (102) and piping area (203)—Water curtain
(7) Fan room (204) and piping area (203)—Water curtain
(8) Fan room (204) and service water pump room (205)—Water curtain
(9) CCW pump room (201) and corridor (200)—Water curtains
(10) Liquid waste evaporator room (420) and cask landing area (419)—Water curtains
(11) Recirculation Piping Tunnel (120) to piping area (203)—Water curtains

[FR Doc. 82-23548 Filed 8-26-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-237 SP and 50-249 SP]

Commonwealth Edison Co. (Dresden Station, Units 2 and 3); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this spent fuel proceeding: Alan S. Rosenthal, Chairman, Thomas S. Moore, Dr. Reginald L. Gotchy.

Dated: August 20, 1982.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-23549 Filed 8-26-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-389A]

Florida Power and Light Co. (St. Lucie Unit 2); Exemption

Florida Power and Light Company (FPL) is holder of a Construction Permit for St. Lucie Unit 2. Operating License information for St. Lucie 2, as required by 10 CFR 50.30(d), was submitted to the Commission on March 24, 1980. At that time, however, information identified in Regulatory Guide 9.3 as being pertinent to a determination of whether significant antitrust changes had occurred subsequent to the previous antitrust review at the construction permit stage could not be provided because the construction permit (CP) antitrust review had not been completed. The CP antitrust review, in fact, continued nearly the entire period of construction and was only recently completed with the issuance on March 24, 1982, of a Memorandum and Order by the presiding Atomic Safety and Licensing Board.

In view of the short time period between completion of the CP antitrust review and the anticipated October 1982 operating license (OL) issuance date, FPL has requested, pursuant to 10 CFR 50.12, an exemption from so much of § 50.30 of the Commission's regulations as would require: (1) Further submittal of antitrust information in connection with the issuance of an operating license for St. Lucie 2; and (2) additional, formal consideration of such information by the Commission in making the "significant changes" determination. In the alternative, FPL has requested an exemption from a formal "no significant changes" determination in view that

there is no statutory requirement for such a determination.

Under section 105(c)(2) of the Atomic Energy Act of 1954, 42 U.S.C. section 2135(c)(2), the NRC must forward to the Attorney General, for his antitrust advice, a copy of an operating license application *if the Commission determines* that such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review in connection with the construction permit. Thus there is no statutory requirement that the Commission must make a negative finding that there have been *no* significant antitrust changes. Still, the statute indicates that some review of the changes is in order. Part 2.101(e) of the Commission's rules codifies the notice requirements and procedures for such a review.

The rule anticipates that the Regulatory Guide 9.3 antitrust information will be submitted concurrently with the health, safety and environmental parts of the OL application and that the antitrust review will be conducted concurrently with the other reviews. In any event, the rule envisions a substantial time frame between completion of the CP antitrust review and issuance of the OL application. Thus, in this unusual instance wherein the CP antitrust review was not completed until two years after the OL application was submitted, a waiver of the rules is in order. The Staff has been closely involved with the St. Lucie CP antitrust proceeding, and has current information regarding the situation in Florida. Moreover, as a result of the extended antitrust proceeding at the construction permit stage, additional municipal utilities have become coholders of the construction permit for St. Lucie and are currently undergoing antitrust review. The Staff is of the opinion that the Regulatory Guide 9.3 information would add very little to its knowledge of the factual situation. Therefore, Staff is not requiring formal submittal of this antitrust information called for by Regulatory Guide 9.3. The Staff will however, on the basis of its current information, make a review as to whether there have been "significant changes" since completion of the construction permit antitrust proceedings. If the Staff finds that additional information details are needed to complete its review, it may request the needed specific information from the applicant.

Further, Staff has determined that this exemption from part 2.101(e) of the Commission's rules will not endanger life or property or the common defense and security. Accordingly, the Commission has determined, pursuant to 10 CFR 50.12, that an exemption is authorized by law and hereby grants the following exemption:

It will not be necessary for applicant to furnish the antitrust information responsive to Regulatory Guide 9.3 and receipt of such information will, therefore, not be noticed in the Federal Register.

The NRC staff has determined that granting of this exemption 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.

Dated at Bethesda, Maryland, this 20th day of August 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-23550 Filed 8-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-70 SC]

General Electric Co. (Vallecitos Nuclear Center—General Electric Test Reactor, Operating License No. TR-1); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this show cause proceeding: Christine N. Kohl, Chairman, Stephen F. Eilperin, Howard A. Wilber.

Dated: August 20, 1982.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-23551 Filed 8-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-316]

Indiana and Michigan Electric Co.; Proposed Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License No. DPR-74, issued to Indiana and Michigan Electric Company (the licensee), for operation of the D.C. Cook Nuclear Plant, Unit No. 2 located in Berrien County, Michigan.

The amendment, as a result of changing to fuel supplied by a different vendor, would revise the provisions of the Facility Operating License, item c(1) on increasing the maximum power level from 3391 megawatts thermal to 3411 megawatts thermal (an increase of about 0.6%) and item c(3)(s) on changing the maximum fuel enrichment from 3.5% uranium 235 to 3.84% uranium 235, and the Technical Specifications relating to the change to a different fuel design in accordance with the licensee's application for amendment dated April 7, 1982, as supplemented by letters dated June 11 and June 30, 1982 and July 8, 1982.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By September 27, 1982, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to

which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 [in Missouri (800) 342–6700]. The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Chief, Operating Reactors Branch No. 1, Division of Licensing: (petitioner's name and telephone number); (date petition was mailed); (D. C. Cook Unit 2); (and publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 7, 1982, as supplemented June 11 and June 30, 1982, and July 8, 1982, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Bethesda, Maryland, this 19 day of August 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-23552 Filed 8-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL-2; ASLBP No. 82-478-05 OL]

Long Island Lighting Co.; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, and pursuant to the Statement of Policy on Conduct of Licensing Proceedings, 13 N.R.C. 452 (1981), and the request of the Atomic Safety and Licensing Board already established to preside in this operating license proceeding, a second Atomic Safety and Licensing Board is being established in the proceeding to continue to guide ongoing settlement efforts by the parties with respect to security planning issues and to preside over the proceeding on those issues only in the event that a hearing is required:

Long Island Lighting Company

Shoreham Nuclear Power Station, Unit 1
Construction Permit No. CPPR-95

This Board is being constituted pursuant to a notice published by the Commission on March 18, 1976, in the **Federal Register** entitled, "Receipt of Application for Facility Operating License, Availability of Applicant's Environmental Report; Consideration of Issuance of Facility Operating License; Opportunity for Hearing". 41 FR 11367–68 (1976).

The Board is comprised of the following Administrative Judges:

James A. Laurenson, Chairman, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Walter H. Jordan, 881 W. Outer Drive, Oak Ridge, Tennessee 37830

Dr. Jerry Harbour, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Bethesda, Maryland, this 24th day of August 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-23553 Filed 8-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 76 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 Technical specifications 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 revises the operating limits for the reactor core for radial peaking factor, enthalpy hot channel factor, and moderator temperature coefficient.

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 determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 10, 1982, as supplemented July 7 and 29, 1982, (2) Amendment No. 76 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, N.W., Washington, D.C. and at the local public document room located at the Multnomah County Library, Social Science and Science Department, 801 S.W. 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 13th day of August 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-23554 Filed 8-26-82; 8:45 am]

BILLING CODE 7590-01-M

Regional State Liaison Officers' Meeting

On September 8 and 9, 1982, the Nuclear Regulatory Commission (NRC) will sponsor a regional meeting with the Governor-appointed State Liaison Officers from Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia and the Commonwealth of Puerto Rico. The subjects which will be discussed include emergency planning, waste management, spent fuel shipments and notification, regionalization as well as other items of mutual regulatory interest.

The meeting will be conducted at the NRC Region II Office, 101 Marietta Street, Suite 3100, Atlanta, Georgia. The meeting is open to the public for attendance and observation and will take place from 8:30 a.m. until 5:30 p.m. on Wednesday, September 8, and from 8:30 a.m. to 12:30 p.m. on Thursday, September 9, 1982.

Questions regarding this meeting should be directed to Sue Weissberg at (301) 492-9877.

Dated at Atlanta, Georgia this 23d day of August 1982.

For the Nuclear Regulatory Commission.

James P. O'Reilly,

Regional Administrator, Region II.

[FR Doc. 82-23556 Filed 8-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

Virgil C. Summer Nuclear Station, Unit No. 1; Issuance of Amendment to Facility Operating License No. NPF-12

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. NPF-12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensees) for the Virgil C. Summer Nuclear Station, Unit No. 1 (the facility) located in Fairfield County, South Carolina. This amendment modifies the actions required in the event that fire-rated assemblies are not operable during that period prior to initial criticality. The amendment is effective as of its date of issuance.

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 regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) South Carolina Electric & Gas Company letter, dated August 18, 1982, (2) Amendment No. 1 to Facility Operating License No. NPF-12 with Appendix A Technical Specification page change, 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, N.W., Washington, D.C. 20555 and the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180. A copy of Amendment No. 1 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 20th day of August 1982.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 82-23555 filed 8-26-82; 8:45 am]

BILLING CODE 7590-01-M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Agency Report Forms Under OMB Review

AGENCY: Overseas Private Investment Corporation.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit information collection requests 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. The proposed form under review is summarized below.

DATE: Comments must be received within 14 calendar days of this notice. If you anticipate commenting on the form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the Agency Submitting Officer of your intent as early as possible.

ADDRESS: Copies of the subject form and the request for review submitted to the OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer and the OMB reviewer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: L. Jacqueline Brent, Office of Personnel and Administration, Overseas Private Investment Corporation, Room 630, 1129 20th Street, N.W., Washington, D.C. 20527; Telephone (202) 653-2818.

OMB Reviewer: David Reed, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503; Telephone (202) 395-7231.

Summary of Form Under Review

Type of Request: Extension (No Change)
Title: Project Information Report
Form Number: OPIC-71
Frequency of Use: Annually
Type of Respondent: Businesses
Standard Industrial Classification Codes: All

Description of Affected Public: Private, U.S.-owned businesses or investors having overseas investments
Number of Responses: 60
Reporting Hours: 1½ hours per response
Federal Cost: $0.00
Authority for Information Collection: Section 231(k) of the Foreign Assistance Act of 1961, as amended
Abstract (Needs and Uses): The project information report form is necessary to elicit and record information on the developmental, environmental, and U.S. economic effects of projects assisted by OPIC. The form will be used by OPIC's staff and management solely as basis for monitoring these projects and for reporting the results in aggregate form to Congress. The information elicited is available from OPIC's clients only and is pledged to be held in strictest confidentiality.

Dated: August 17, 1982.

Anthony F. Marra,

Deputy General Counsel, Office of the General Counsel.

[FR Doc. 82-23623 Filed 8-26-82; 8:45 am]

BILLING CODE 3210-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Extension of Forms for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed extension of forms.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, this notice announces a proposed extension of forms which collect information from the public. BRI 46-360—Application for Restoration of Survivor Annuity, is completed by certain widows or widowers who lost entitlement to Civil Service Retirement System benefits because they remarried before July 18, 1966, and are entitled to be reinstated if they meet certain conditions. Compensation Group uses this information to determine whether survivor annuity should be restored. For copies of this proposal, call John P. Weld, Agency Clearance Officer, on (202) 632-7720.

DATES: Comments on this proposal should be received within thirty working days from August 28, 1982.

ADDRESSES: Send or deliver comments to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6H28, Washington, D.C. 20415, and

Mr. Frank Reeder, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: William Washington, (202) 632-5472.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82-23559 Filed 8-26-82; 8:45 am]

BILLING CODE 6325-01-M

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202-632-6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published a notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on July 27, 1982 (47 FR 32503). Individual authorities established or revoked under Schedules A, B, or C between July 1, 1982 and July 31, 1982 appear in a listing below. Future notices will be published on the fourth Tuesday of each month. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exception is established:

In the Department of the Treasury, Office of the Comptroller to the Currency, up to six positions filled under the Professional Accounting Fellow Program. Appointments under this authority may not exceed 2 years. Effective July 23, 1982.

The following exceptions are revoked:

In the Department of Transportation, U.S. Coast Guard, positions at grade GS-9 and below whose incumbents are engaged in the admeasurement or documentation of merchant vessels on a part-time or intermittent basis not exceeding 700 hours in a service year; revoked effective July 19, 1982, because the authority is no longer used.

In the Department of Transportation, The Alaska Railroad, temporary, part-time, or intermittent positions of nonsupervisory laborers in Alaska, involving railroad construction or repair work at locations outside the Fairbanks and Anchorage commuting areas; revoked effective July 19, 1982, because the authority is no longer needed.

In the Department of Transportation, The Alaska Railroad, the General Manager position; revoked effective July 19, 1982, because the authority is no longer needed.

In the Department of Transportation, The Alaska Railroad, the Assistant General Manager; revoked effective July 19, 1982, because the authority is no longer needed.

In the Department of Transportation, Federal Aviation Administration, Caretakers and Light Attendants employed on emergency fields and other air navigation facilities; revoked effective July 19, 1982, because the authority is no longer needed.

In the Department of Transportation, Federal Aviation Administration, Medical Officer positions on Wake Island; revoked effective July 19, 1982, because the authority is no longer needed.

In the Department of Transportation, Federal Aviation Administration, Laborer positions on Swan Island; revoked effective July 19, 1982, because the authority is no longer needed.

In the Department of Transportation, Federal Aviation Administration, one Air Carrier Cabin Safety Specialist; revoked effective July 19, 1982, because the authority is no longer needed.

In the Department of Transportation, Maritime Administration, one Public Information Officer; revoked effective July 20, 1982, because the position is no longer needed.

In the Department of Transportation, Maritime Administration, one Special Assistant to the Administrator (Tanker Advisor); revoked effective July 20, 1982, because the position is no longer needed.

In the Department of Transportation, Maritime Administration, two Special Assistants to the Deputy Administrator; revoked effective July 20, 1982, because the positions are no longer needed.

In the Department of Transportation, Maritime Administration, positions of Chief Investigator (Security Officer) and Deputy Chief Investigator (Security Officer); revoked effective July 29, 1982, because the positions are no longer needed.

In the Department of State, Bureau of Intelligence and Research, two positions of Intelligence Operations Specialist and one position of Supervisory Intelligence Research Specialist; revoked effective July 21, 1982, because the criteria for the exception is no longer met.

Schedule B

The following exception is established:

In the National Endowment for the Humanities, one Assistant Director, Special Projects Program, Division of General Programs. Effective July 6, 1982.

The following exceptions are revoked:

In the National Endowment for the Humanities, one Director, Division of Special Programs; revoked effective July 6, 1982, because the position is no longer needed.

In the National Endowment for the Humanities, one Deputy Director, Division of Special Programs; revoked effective July 16, 1982, because the position is no longer needed.

In the Department of State, two technical cryptographic positions in the Communications Security Division, Office of Communications; revoked effective July 21, 1982, because the criteria for the exception is no longer met.

Schedule C

The following exceptions are established:

In the Department of Agriculture, Office of the Secretary, one Special Assistant to the Deputy Assistant Secretary for Administration. Effective July 2, 1982.

In the Department of Agriculture, Office of Minority Affairs, one Private Secretary to the Director. Effective July 12, 1982.

In the Department of Agriculture, Office of the Secretary, one Private Secretary to the Deputy Assistant Secretary for Administration. Effective July 23, 1982.

In the Department of Agriculture, Office of Minority Affairs, one Special Assistant to the Director. Effective July 23, 1982.

In the Department of Agriculture, Office of Minority Affairs, one Confidential Assistant to the Director. Effective July 29, 1982.

In the Department of Agriculture, Farmers Home Administration, one Confidential Assistant to the Administrator. Effective July 30, 1982.

In the Department of the Army, Office of the Secretary, one Staff Assistant to the Special Assistant to the President for Political Affairs. Effective July 26, 1982.

In the Department of Commerce, Office of the Secretary, one Press Secretary. Effective July 6, 1982.

In the Department of Commerce, one Congressional Liaison Specialist to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective July 6, 1982.

In the Department of Commerce, one Confidential Assistant to the Deputy Assistant Secretary for Intergovernmental Affairs. Effective July 12, 1982.

In the Department of Commerce, National Oceanic and Atmospheric Administration, one Special Assistant to the Assistant Administrator for Policy and Planning. Effective July 13, 1982.

In the Department of Commerce, Office of the Secretary, one Private Secretary to the Deputy Secretary. Effective July 29, 1982.

In the Department of Commerce, Office of the Secretary, one Confidential Assistant to the Associate Deputy Secretary for Strategic Policy and Planning. Effective July 30, 1982.

In the Department of Commerce, one Confidential Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective July 30, 1982.

In the Department of Commerce, International Trade Administration, one Confidential Assistant to the Deputy Assistant Secretary for Export Enforcement. Effective July 30, 1982.

In the Consumer Product Safety Commission, one Congressional Relations Specialist to the Director of Congressional Relations. Effective July 12, 1982.

In the U.S. Commission on Civil Rights, Office of the Staff Director, one Special Assistant to the Chairman in San Diego, California. Effective July 22, 1982.

In the Department of Transportation, one Staff Assistant to the Director, Departmental Office of Civil Rights. Effective July 16, 1982.

In the Department of Transportation, National Highway Traffic Safety Administration, one Special Assistant to the Director, Office of Public Affairs and Consumer Participation. Effective July 23, 1982.

In the Department of Education, Office of the Secretary, one Confidential Assistant to the Secretary. Effective July 12, 1982.

In the Department of Education, Office of the Deputy Under Secretary for Management, one Special Assistant to the Comptroller. Effective July 12, 1982.

In the Department of Education, Office of the Deputy Under Secretary for Management, one Special Assistant to the Deputy Under Secretary. Effective July 15, 1982.

In the Department of Education, Office of Special Education and Rehabilitative Services, one Special Assistant to the Assistant Secretary. Effective July 16, 1982.

In the Department of Education, Office of the Under Secretary, one Secretary's Regional Representative in Seattle, Washington. Effective July 22, 1982.

In the Department of Education, one Executive Assistant to the Deputy Under Secretary for Management. Effective July 22, 1982.

In the Department of Education, one Special Assistant to the Under Secretary. Effective July 27, 1982.

In the Department of Education, one Special Assistant to the Assistant Secretary for Special Education and Rehabilitation Services. Effective July 29, 1982.

In the Department of Education, Office for Civil Rights, one Confidential Assistant to the Assistant Secretary. Effective July 29, 1982.

In the Environmental Protection Agency, Office of the Administrator, one Special Assistant to the Chief of Staff. Effective July 16, 1982.

In the Department of Housing and Urban Development, one Staff Assistant to the President/Manager of the Solar Energy and Energy Conservation Bank. Effective July 6, 1982.

In the Department of Housing and Urban Development, one Special Assistant to the Deputy Assistant Secretary for Public and Indian Housing. Effective July 19, 1982.

In the Department of Housing and Urban Development, one Special Assistant to the Regional Administrator in Dallas, Texas. Effective July 21, 1982.

In the Department of Health and Human Services, one Director, Office of State and Project Assistance, Office of Community Services. Effective July 21, 1982.

In the Department of Health and Human Services, one Special Assistant for Block Grants to the Director, Office of State and Project Assistance, Office of Community Services. Effective July 27, 1982.

In the Department of Health and Human Services, one Clerical Assistant to the Chief of Staff, in the Executive Office of the President. Effective July 27, 1982.

In the U.S. International Communications Agency, one Special Assistant to the Associate Director for Programs. Effective July 2, 1982.

In the U.S. International Communications Agency, one Public Affairs Specialist to the Director, Office of Public Liaison. Effective July 7, 1982.

In the U.S. International Communications Agency, one Deputy for Editorial Comment to the Director of Programs, Voice of America. Effective July 13, 1982.

In the U.S. International Communications Agency, one Special Assistant (Congressional Relations) to

the General Counsel. Effective July 13, 1982.

In the U.S. International Communications Agency, one Staff Specialist to the Special Assistant, Private Sector Liaison. Effective July 14, 1982.

In the U.S. International Communications Agency, one Staff Specialist to the Special Assistant, Private Sector Liaison. Effective July 14, 1982.

In the U.S. International Communications Agency, one Staff Specialist to the Special Assistant, Private Sector Liaison. Effective July 14, 1982.

In the U.S. International Communications Agency, one Special Projects Officer to the Director. Effective July 14, 1982.

In the U.S. International Communications Agency, one Special Assistant to the Deputy Associate Director for Educational and Cultural Affairs. Effective July 14, 1982.

In the U.S. International Communications Agency, one Director of Audience Relations to the Associate Director for Broadcasting. Effective July 26, 1982.

In the Department of Interior, one Staff Assistant to the Director of Public Affairs (Public Information Officer), Bureau of Reclamation. Effective July 2, 1982.

In the Department of Interior, one Special Assistant to the Assistant Secretary for Territorial and International Affairs. Effective July 27, 1982.

In the Department of Justice, one Staff Assistant (Stenography) to the Deputy Attorney General. Effective July 12, 1982.

In the Department of Labor, one Special Assistant to the Assistant Secretary for Veterans' Employment. Effective July 15, 1982.

In the Department of the Navy, one Staff Assistant to the Deputy Assistant Secretary of the Navy (Logistics). Effective July 15, 1982.

In the National Credit Union Administration, one Executive Officer to the Chairman. Effective July 13, 1982.

In the National Credit Union Administration, one Staff Assistant to the Chairman. Effective July 13, 1982.

In the Small Business Administration, one Staff Assistant to the Administrator. Effective July 12, 1982.

In the Small Business Administration, one Confidential Assistant to the General Counsel. Effective July 12, 1982.

In the Small Business Administration, one Special Assistant to the Regional Administrator in Denver, Colorado. Effective July 21, 1982.

In the Department of State, one Special Assistant to the Ambassador, U.S. Representative, Organization of American States. Effective July 2, 1982.

In the Equal Employment Opportunity Commission, Office of Policy Implementation, one Social Science Research Specialist to the Director. Effective July 2, 1982.

Office of Personnel Management.

Donald J. Devine,

Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 82-23512 Filed 8-26-82; 8:45 am]

BILLING CODE 6325-01-M

THE PRESIDENT'S TASK FORCE ON PRIVATE SECTOR INITIATIVES

Meeting

The President's Task Force on Private Sector Initiatives will hold its fourth meeting on September 20–21 in the Gold Room of the Wichita Royale Hotel, Witchita, Kansas.

The public sessions of the meeting will convene at 1:15 P.M. on September 20 and adjourn at 2:45 P.M. On September 21, the meeting hours will be held from 9:00 A.M. to 12:00 Noon. Due to fire regulations, attendance will be limited. Those persons wishing to attend should call Tish Manes at (202) 395–7362 to make a reservation. Calls should be placed during business hours on September 16, 1982 only.

Michael P. Castine,

Deputy Director, Private Sector Initiatives.

[FR Doc. 82-23514 Filed 8-26-82; 8:45 am]

BILLING CODE 3510-CW-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-6054]

Flower Industries Inc.; Application To Withdraw From Listing and Registration

August 23, 1982.

In the matter of Flowers Industries, Inc. common stock, $.625 par value. The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Flowers Industries, Inc. ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8–A which became effective on July 26, 1982, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before September 14, 1982, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-23612 Filed 8-26-82; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

August 23, 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:

Grolier, Inc.
Common Stock, $.50 Par Value (File No. 7–6303)

Nutri/System, Inc.
Common Stock, $.01 Par Value (File No. 7–6304)

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 September 14, 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. 82-23606 Filed 8-26-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. SR-NSCC-21, Rel. No. 18999]

Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Securities Clearing Corp.

August 23, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on August 12, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change conforms NSCC Rule 12 to recent revisions to Article 8 of the Uniform Commercial Code ("UCC") as adopted by New York. NSCC Rule 12 provides when the delivery of securities is considered final in NSCC's Continuous Net Settlement System. Pursuant to the proposed rule change, that Rule would be amended to parallel the definition of delivery as provided in UCC Section 8-320(1)(c).

NSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(A) of the Act in that it facilitates the prompt and accurate clearance and settlement of securities transactions.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or apporpriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before September 17, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-82-21.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-23607 Filed 8-26-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. SR-NSCC-82-17; Rel. No. 18998]

Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Securities Clearing Corp.

August 23, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") 15 U.S.C. § 78s(b)(1), notice is hereby given that on July 26, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change enhances NSCC's procedures with respect to comparison of listed and over-the-counter ("OTC") bond transactions. Pursuant to the proposed rule change, trade input must indicate the market of execution and the seller must provide information as to whether the security is a registered or a coupon instrument. When the buyer and seller both indicate that the debt security is in the same form, of if the buyer fails to specify the form, the trade will be compared. The proposed rule change also provides for NSCC's advisory procedures to be applicable to OTC and municipal bond transactions, as well as to unit trust fund transactions.

NSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act in that it will promote the prompt and accurate clearance and settlement of securities transactions by improving the bond comparison services available to NSCC participants.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before September 17, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-82-17.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at

the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-23608 Filed 8-26-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. SR-NSCC-82; Rel. No. 18995]

Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Securities Clearing Corporation

August 23, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on July 29, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would permit NSCC members to pledge qualifying bonds to NSCC's clearing fund through the facilities of a qualified securities depository designated by the member. In operation, the proposed rule change would enable a NSCC member to instruct a qualified securities depository, where both the member and NSCC have accounts, to make the necessary book-keeping entries to pledge qualifying bonds to NSCC's account.

In its filing, NSCC stated that it believes that the proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 ("the Act") because it provides an efficient alternative means to effect clearing fund deposits. In addition, NSCC stated that the time, inconvenience and risk of physically withdrawing the bonds from a qualified securities depository in order to deliver bonds to NSCC's Clearing Fund Depository will be eliminated under the proposed rule.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission on or before September 17, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-82-16.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-23609 Filed 8-26-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18996; File No. SR-NSCC-82-16]

Filing and Immediate Effectiveness of Proposed Rule Change by National Securities Clearing Corporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 27, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

NSCC's guidelines for determining when a broker-dealer should be placed on surveillance are linked, in part, to the Commission's net capital rule, Rule 15c3-1 (17 CFR 240.15c3-1). Recently, the Commission, in Securities Exchange Act Release No. 18414 (January 13, 1982), amended portions of the net capital rule to make it less restrictive, the most important of which was a two percent decrease in the net capital requirement for broker-dealers using the "alternative method" under Rule 15c3-1(f). NSCC wishes to amend its guidelines so that they are consistent with this two percent reduction. NSCC believes that the proposal is consistent with Section 17A(b)(3)(A) of the Act in that it does not affect NSCC's ability to safeguard securities and funds in its custody or control or for which it is responsible.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-82-16.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-23610 Filed 8-26-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18997 File No. SR-NSCC-82-15]

Filing and Immediate Effectiveness of Proposed Rule Change by National Securities Clearing Corporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 26, 1982, the National Securities Clearing Corporation ("NSCC") filed with the

Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change amends NSCC's method of receiving trade data for debt securities transactions executed on the New York Stock Exchange, Inc. ("NYSE"). Pursuant to the proposed rule change, the NYSE's Automated Bond System ("ABS") will submit to NSCC trade data for regular-way transactions in debt securities included in ABS. ABS will be the *contra* side to each transaction, and ABS trade data will be netted separately. Previously, NSCC members submitted to NSCC trade data for their trades in debt securities.

NSCC believes the proposed rule change is in accordance with Section 17A(b)(3)(F) of the Act in that it will promote the prompt and accurate clearance and settlement of securities transactions in that it will facilitate the submission of the trade data and simplify the correction of any errors in trade input.

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before September 13, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–NSCC–82–15.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room , 450 5th Street, N.W., Washington, D.C. copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–23611 Filed 8–26–82; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–11791]

Tenneco, Inc.; Application and Opportunity for Hearing

Notice is hereby given that Tenneco Inc. (the "Company") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the Trusteeship of The Chase Manhattan Bank (National Association) ("Chase") under Indentures of the Company dated as of September 1, 1962, June 1, 1963, April 1, 1964, December 1, 1964, September 1, 1965, May 1, 1967, February 1, 1974, May 1, 1975, April 1, 1977, as amended, April 15, 1978, June 15, 1979, February 1, 1980, May 1, 1980, January 15, 1981, April 1, 1981, June 1, 1981, June 1, 1981 and December 15, 1981 (the "Qualified Indentures"), which were heretofore qualified under the Act, and the Indentures of the County of Sweetwater, Wyoming, dated August 1, 1981, the obligations issued under which Indentures were guaranteed by the Company pursuant to Guaranty Agreements dated as of August 1, 1981 (the "Guaranty Agreements") and which Indentures are not qualified under the Act, and the Indenture of Tenneco International N.V. ("International"), dated October 1, 1981 (the "Exempt Indenture") the obligations issued under which Indenture are guaranteed by the Company pursuant to Section 2.05 of the Exempt Indenture, and which Indenture is not qualified under the Act, and trusteeship by Chase under an Indenture of Tenneco International N.V., to be dated as of August 4, 1982 (the "New Indenture"), which is not qualified under the Act, is not so likely to involve a material interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting under the Qualified Indentures, the Guaranty Agreements, the Exempt Indenture and the New Indenture.

Section 310(b) of the Act, which is included in the provisions of each of the Qualified Indentures, provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such section), it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Section (1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities of the same issuer are outstanding.

The present application, filed pursuant to clause (ii) of Section 310(b)(1) of the Act (as set forth in each of the Qualified Indentures), seeks to exclude the New Indenture from the operation of Section 310(b)(1) of the Act.

The effect of the provision contained in clause (ii) of Section 310(b)(1) of the Act on the matter of the present application is such that the New Indenture may be excluded from the operation of Section 310(b)(1) of the Act (as set forth in each of the Qualified Indentures) if the Company shall have sustained the burden of proving by this application to the Commission and after opportunity for hearing thereon that the trusteeship of Chase under the Qualified Indentures and under the New Indenture 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 Chase from acting as trustee under any of these Indentures.

The Company alleges that:

(1) At June 30, 1982, the Company had outstanding $3,600,000 of its 5% Debentures due September 1, 1982, $4,471,000 of its 5% Debentures due June 1, 1983, $11,808,000 of its 5⅛% Debentures due April 1, 1984, $9,013,000 of its 5% Debentures due December 1, 1984, $17,700,000 of its 5¼% Debentures due September 1, 1985, $20,550,000 of its 6⅛% Debentures due May 1, 1987, $76,100,000 of its 9% Debentures due February 1, 1994, $112,500,000 of its 9⅜% Debentures due May 1, 2000, $175,000,000 of its 8⅜% Debentures due April 1, 2002, $200,000,000 of its 8⅜% Debentures due April 15, 2003, $250,000,000 of its 9⅛% Debentures due June 15, 2004, $150,000,000 of its 11⅜% Notes due February 1, 1983, $250,000,000 of its 12⅛% Debentures due May 1, 2005, $200,000,000 of its 13⅜% Notes due January 15, 1991, $200,000,000 of its 14½% Debentures due April 1, 2006, $200,000,000 of its 14½% Notes due June 1, 1991, $100,000,000 of its 15% Debentures due June 1, 2006, $400,000,000 of its 6% Debentures due December 15, 2011, (collectively, the

"Qualified Debentures and Notes") issued under the Qualified Indentures (dated September 1, 1962, June 1, 1963, April 1, 1964, December 1, 1964, September 1, 1965, May 1, 1967, February 1, 1974, May 1, 1975, April 1, 1977 (with Supplemental Indenture dated November 15, 1977), April 15, 1978, June 15, 1979, February 1, 1980, May 1, 1980, January 15, 1981, April 1, 1981, June 1, 1981, June 1, 1981 and December 15, 1981, respectively) executed by the Company and Chase, as trustee, and $19,560,000 of the 9½% Bonds due August 1, 1984, issued under Indentures of the County of Sweetwater, Wyoming dated August 1, 1981 and guaranteed by the Company pursuant to Guaranty Agreements (the "Guaranty Agreements") dated as of August 1, 1981 and $100,000,000 of 17% Guaranteed Notes issued under an Indenture of Tenneco International N.V. dated October 1, 1981, (the "Exempt Indenture"), and guaranteed by the Company pursuant to Section 2.05 of the Exempt Indenture. The Guaranty Agreements and the Exempt Indenture were executed by Chase, as trustee, and are not qualified under the Act. The Qualified Debentures and Notes were registered under the Securities Act of 1933 (File Nos. 2–20654, 2–21450, 2–22137, 2–22929, 2–23953, 2–26360, 2–49852, 2–53402, 2–58345, 2–61001, 2–64660, 2–66493, 2–67547, 2–70482, 2–71345, 2–72606, 2–72606 and 2–75143, respectively) and the Qualified Indentures were qualified under the Trust Indenture Act of 1939. The Registration Numbers of the Guaranty Agreements and the Exempt Indenture, which are not qualified under the Act, are 22–11250 and 22–11305, respectively;

(2) Tenneco International N.V. proposes to issue and sell Thirty Million Pounds Sterling aggregated principal amount of its 14¾% Notes Due August 4, 1987 (the "New Notes") to be issued under the New Indenture. The New Notes will be guaranteed by the Company pursuant to Section 2.05 of the Indenture;

(3) The New Notes are being issued by a person organized and existing under the laws of a foreign government and are not being offered and may not be sold directly or indirectly in the United States of America or its territories or possessions or to nationals or residents thereof. The New Notes are therefore exempt from the registration requirements of the Securities Act of 1933 and the New Indenture is exempt from the qualifications provisions of the Trust Indenture Act of 1939;

(4) The Qualified Indentures, the Guaranty Agreements, the Exempt Indenture and the New Indenture are wholly unsecured, and rank pari passu inter se;

(5) The Company's guaranty of the New Notes is neither superior nor inferior in right of payment to the Qualified Debentures and Notes, the Guaranty Agreements or the Exempt Indenture;

(6) The Company is not in default under the Qualified Indentures, Qualified Debentures and Notes, the Guaranty Agreements or the Exempt Indenture;

(7) Such differences as exist among the Qualified Indentures, the Guaranty Agreements, the Exempt Indenture and the New Indenture are not 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 Chase from acting as trustee under any of the Indentures.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

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's Public Reference Section, 450 5th Street NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than September 16, 1982, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, the issues of fact or law raised by said Applicant which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 20, 1982.

[FR Doc. 82–23580 Filed 8–26–82; 8:45 am]

BILLING CODE 8010–01–M

[File No. 81–657]

Valley Water Co.; Notice of Application and Opportunity for Hearing

August 24, 1982.

Notice is hereby given that Valley Water Company ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act") for an order granting Applicant an exemption from the provisions of Section 12(g) of the 1934 Act.

The Applicant states, in part:

(1) Applicant provided water to residents within a 2,400 acre service area in the City of La Canada Flintridge in the County of Los Angeles, California;

(2) Applicant was organized as a mutual water company under the laws of the State of California, and is subject to the reporting requirements of California law;

(3) Virtually all of the subscriber-stockholders of Applicant are California residents; and

(4) There is no trading market for the Applicant's securities.

Applicant contends that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 450 5th Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than September 17, 1982, may submit to the Commission in writing his views or any substantial facts bearing on 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, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–23570 Filed 8–26–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 819]

Claims Against Iran: The Iran-United States Claims Tribunal

This notice concerns recent developments at the Iran-United States Claims Tribunal at The Hague, including information relating to the procedures applicable to the adjudication of claims. It supplements information provided in Public Notice 795 (47 FR 8118, February 24, 1982) and prior notices. For further information, contact David P. Stewart, Administrator for Iranian Claims, Office of the Legal Adviser, Department of State, Washington, D.C. 20520. Telephone (202) 632-5040.

On June 25, 1982, the Tribunal amended its Provisional Rules of Procedure of March 15, 1982, which are based on the UNCITRAL Arbitration Rules. The Tribunal revised Note 5 to Article 15 and made an addition to Note 5 of Article 25. In lieu of the bracketed text given in the Provisional Rules of Procedure of March 15, 1982, the text of Article 15, Note 5 now reads:

> The Tribunal may, having satisfied itself that the statement of one of the two Governments—or, under special circumstances, any other person—who is not an arbitrating party in a particular case is likely to assist the Tribunal in carrying out its task, permit such Government or person to assist the Tribunal by presenting oral or written statements.

The following is added to the text as given in Article 25, Note 5 of the Provisional Rules:

> The Agents of the two Governments are permitted to be present at the pre-hearing conferences and hearings. On August 3, 1982, the Tribunal rendered its decision

on the remaining three issues in Case A/1: (1) Disposition of the interest earned on the Security Account; (2) allocation of the management fees associated with the Security Account as between Iran and the United States; and (3) allocation of responsibility for indemnifying the depositary of the Security Account against potential losses. The fourth issue had previously been decided on May 24, 1982, when the Tribunal ruled that claims settled by the parties directly concerned may be paid from the Security Account only where the Tribunal has examined its jurisdiction over the claim and issues an award on agreed terms based on the settlement pursuant to Article 34 of the Provisional Rules.

In its latest ruling, the Tribunal decided that the interest earned on the Security Account should continue to be credited to the separate interest-bearing account established in accordance with the interim technical arrangements negotiated last August. The Tribunal further decided that any such interest may be used by Iran to replenish the Security Account, until the Security Account is finally closed or until the U.S. and Iran agree to some other use of the interest earned. On the questions of management fees and indemnification, the Tribunal determined that fees should be borne equally by the two Governments and that indemnification should be joint and several, leaving open until an actual case arises the question of how ultimate responsibility for indemnification should be allocated between the United States and Iran. Copies of the Tribunal's decision are available upon request from the Office of Iranian Claims.

The Tribunal's Registry has begun to process and serve the "small" claims of U.S. nationals on the Iranian Agent to the Tribunal. All claimants with claims against Iran of less than $250,000 each have been asked to submit any remaining documentation or other evidence to the Office of Iranian Claims as promptly as possible. Claimants who have not yet received the letter of instruction should contact the Office of Iranian Claims.

The attention of claimants and other interested parties is directed to several recent notices published by the Department of the Treasury concerning amendments ot the Iranian Assets Control Regulations (31 CFR Part 535). See 47 FR 22361 (May 24, 1982); 47 FR 25003 (June 9, 1982); 47 FR 29528 (July 7, 1982); and 47 FR 31682 (July 22, 1982).

Tribunal orders and decisions related to pending claims are now being mailed directly to the concerned claimants by the U.S. Agent to the Tribunal. The Office of Iranian Claims will provide copies of those orders and decisions to the concerned claimants and legal representatives upon request. Claimants with inquiries about such matters, or who require information concerning related claims, common issues or other questions pending before the Tribunal, are requested in the first instance to direct their inquiries in writing or by telephone to the Office of Iranian Claims in Washington, rather than the Agent of the United States to the Tribunal at The Hague.

Date: August 20, 1982.

David P. Stewart,

Administrator for Iranian Claims.

[FR Doc. 82-23524 Filed 8-26-82; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF THE TREASURY

[No.102-7]

Delegation of Authority to the Chief, Information Resources Management Division to Grant or Deny Access to Records of the Economic Stabilization Program

Dated: August 16, 1982.

By virtue of the authority vested in me by Treasury Department Order No. 233 (Revision No. 1), December 26, 1974, it is ordered as follows:

1. The Chief, Information Resources Management Division, Office of Management and Organization, is delegated the authority, without power of further redelegation, to grant or deny access to the records of the Economic Stabilization Program, subject to prior consultation with appropriate legal counsel, effective May 1, 1982.

2. All appeals from denials of access to records shall be addressed to the Assistant Secretary (Administration) for decision.

This Order supersedes Treasury Department Order No. 233-3 Revised, June 26, 1975.

Cora P. Beebe,

Assistant Secretary (Administration).

[FR Doc. 82-23585 Filed 8-26-82; 8:45 am]

BILLING CODE 4810-25-M

[No. 165-25]

Delegation of Authority to the Commissioner of Customs to Prescribe Regulations

Dated: August 5, 1982.

By virtue of the authority vested in the Secretary of the Treasury by Reorganization Plan No. 26 of 1950 and pursuant to the authority delegated to me as Assistant Secretary (Enforcement and Operations), by Treasury 101-5, notwithstanding the provisions of paragraph 1(a) of Treasury Department Order No. 165, Revised (T.D. 53654), there is hereby delegated to the Commissioner of Customs, authority to prescribe regulations relating to §§ 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f), Customs Regulations (19 CFR 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f)).

John M. Walker, Jr.,

Assistant Secretary, (Enforcement and Operations).

[FR Doc. 82-23584 Filed 8-26-82; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 167
Friday, August 27, 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).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Home Loan Bank Board	2
Federal Reserve System	3
International Trade Commission	4
Pacific Northwest Electric Power and Conservation Planning Council	5

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (Eastern Time), Tuesday, August 31, 1982.

PLACE: Commission Conference Room No. 5240 on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW. Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Freedom of Information Act Appeal No. 82-6-FOIA-27-ME, concerning a request for wage and hour materials contained in equal pay investigative files.
3. Freedom of Information Act Appeal No. 82-6-FOIA-44-SL, concerning a request for a copy of the file on charge No. 071801094.
4. Budget for Fiscal Year 1984.
5. A report on Commission Operations by the Acting Executive Director.

CLOSED:

1. Litigation Authorization; General Counsel Recommendations.
2. Withdrawal of Certain Charges.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

(In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Officer, Executive Secretariat at (202) 634-6748.

This Notice Issued August 24, 1982.

[S-1234-82 Filed 8-25-82; 12:02 pm]

BILLING CODE 6570-06-M

2

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: August 26, 1982, 2 p.m.

PLACE: 1776 G Street, NW., Washington, D.C., 4th Floor, Conference Room 4-G.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Scott R. Daugherty.

MATTERS TO BE CONSIDERED: Closed to the public:

Minutes of July 27, 1982 Board of Directors' Meeting
President's Report
Complete June Financial Statements
Partial July Financial Statements
Minute Entry
Minutes of July 27, 1982 Financing Strategy Meeting
Bylaw Amendment Regarding Standard Form Resolution for Short-term Debt Issuances
Financial Strategy September 1982
Minute Entry
Hedging Contract Limit Resolution
Pre-Sale Long-term Debt Resolution

Date sent to **Federal Register:** August 24, 1982.

[S-1232-82 Filed 8-24-82; 4:28 pm]

BILLING CODE 6720-02-M

3

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 10 a.m., Wednesday, September 1, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: August 25, 1982.

James McAfee,

Associate Secretary of the Board.

[S-1233-82 Filed 8-25-82; 10:53 am]

BILLING CODE 6210-01-M

4

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 2:30 p.m., Wednesday, September 8, 1982.

PLACE: Room 117, 701 E Street, N.W., 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.
5. Investigation TA-201-46 (Tubeless Tire Valves)—briefing and vote on remedy (if necessary).
6. Investigations 701-TA-187 and 731-TA-100 [Preliminary] (Tool Steel from Brazil and the Federal Republic of Germany)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1236-82 Filed 8-25-82; 3:07 pm]

BILLING CODE 7020-02-M

5

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

TIME AND DATE: September 1, 1982 at 10 a.m.; September 2 at 9 a.m.

PLACE: The Portland Hilton Hotel, Pavilion Room, 921 S.W. Sixth Avenue, Portland, Oregon.

MATTERS TO BE CONSIDERED:

Staff Presentation on Fish and Wildlife Program
Staff Presentation on Thermal Power Plant-Conservation Cost Comparisons
Council Business:
Sunshine Act Rules
Other Business

CONTACT PERSON FOR MORE INFORMATION: Ms. Bess Wong (503) 222-5161.

Edward Sheets,

Executive Director.

[S-1235-82 Filed 8-25-82; 12:22 pm]

BILLING CODE 0000-00-M

federal register

Friday
August 27, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California: CA82-5112	July 16, 1982.
Georgia: GA82-1038	Aug. 6, 1982.
Illinois:	
IL82-2001	Jan. 15, 1982.
IL82-2003	Mar. 5, 1982.
Iowa: IA82-4030	June 18, 1982.
Louisiana:	
LA82-4020	May 7, 1982.
LA82-4022	May 7, 1982.
Maryland: MD80-3047	Aug. 29, 1980.
Missouri: MO81-4055	July 10, 1981.
New Mexico: NM82-4031	June 18, 1982.
New York: NY81-3033	June 5, 1981.
Texas:	
TX81-4064	Aug. 7 1981.
TX82-4029	June 18, 1982.
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.

California: CA81-5119 (CA82-5120)	May 15, 1981.
Iowa: IA81-4095 (IA82-4044)	Nov. 27, 1981.
New Mexico: NM80-4101 (NM82-4043)	Dec. 19, 1980.
Wisconsin: WI80-2043 (WI82-2043)	June 27, 1980.

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. Frings 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 20th day of August 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATIONS P. 1

DECISION NO. CA82-5112 - Mod. #2
(47 FR 31154 - July 16, 1982)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$24.40	$3.31
Electricians:		
Area 2:		
Electricians	15.00	3.55
Area 3:		
Electricians	22.78	4.82
Cable Splicers	24.91	4.89
Area 9:		
Cable Splicers	24.04	4.53
Area 10:		
Electricians	14.37	3.92
Area 12:		
Electricians	22.30	4.86
Cable Splicers	22.30	4.86
Glaziers:		
Area 1	20.10	5.24
Line Construction:		
Area 7:		
Linemen	22.30	4.86
Cable Splicers	22.30	4.86
Area 12:		
Cable Splicers	18.45	5.75
Painters:		
Area 4:		
Brush	20.93	3.93
Tapers	21.73	3.93
Area 9:		
Brush	11.08	2.67
Spray; Sandblasters; Structural Steel; Swing Stage; Tapers; and Paperhangers	11.33	2.67
Plasterers:		
Area 3	16.06	5.91
Roofers:		
Area 1:		
Roofers	$16.25	$5.87
Mastic Workers; Kettlemen (2 kettles w/wo pumps)	16.50	5.87
Bitumastic; Enamelers; Pipewrappers; Coal tar built up	18.25	5.87
Area 5:		
Roofers	15.75	6.39
Mastic Workers; Kettlemen (2 kettles w/o pumps)	16.00	6.39
Bitumastic; Enamelers; Pipewrappers; Coal tar pitch	17.75	6.39
Area 7:		
Roofers	18.35	3.40
Area 8:		
Roofers	15.90	5.89
Mastic Workers; Kettlemen (2 kettles w/o pumps)	16.15	5.89
Bitumastic; Enamelers; Pipewrappers; Coal tar	17.90	5.89

MODIFICATIONS P. 2

DECISION NO. IL82-2001 - MOD. #4
(47 FR 2459 - January 15, 1982)
Alexander, Champaign, Christian, Clark, Clay, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Gallatin, Hamilton, Hardin, Iroquois, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Moultrie, Perry, Piatt, Pope, Pulaski, Richland, Saline, Shelby, Union, Vermilion, Wabash, Wayne, White, & Williamson Counties, Illinois

	Basic Hourly Rates	Fringe Benefits
Change:		
Boilermakers:		
Area 1	$16.60	2.505
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons:		
Area 2	15.60	1.75
Carpenters; Lathers; Millwrights; Piledrivermen; & Soft Floor Layers:		
Area 2:		
Carpenters; Lathers; & Soft Floor Layers	15.855	2.13
Millwrights & Piledrivermen	16.355	2.13
Cement Masons & Plasterers:		
Area 2:		
Cement Masons	17.225	.575
Plasterers	16.565	.575
Electricians:		
Area 2	17.10	2.25
Elevator Constructors:		
Area 1:		
Elevator Constructors	16.375	2.465+a+b
Helpers	70%JR	2.465+a+b
Glaziers:		
Area 1	14.89	.97
Ironworkers:		
Area 2	15.00	3.03
Marble Setters; Terrazzo Workers; & Tile Setters:		
Area 3	17.25	
Marble Setters' Finishers; Terrazzo Workers' Finishers; & Tile Setters' Finishers:		
Area 2:		
Marble Setters' Finishers; & Tile Setters' Finishers	$15.75	
Painters:		
Area 2	16.27	.99
Pipefitters; Plumbers; & Steamfitters:		
Area 2	18.05	2.32
Roofers:		
Area 3	16.21	2.30
Sheet Metal Workers:		
Area 2	16.74	2.65+c
Sprinkler Fitters	16.67	2.83
Power Equipment Operators:		
Champaign, Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Ford, Iroquois, Jasper, Lawrence, Moultrie, Richland, Vermilion, Wabash, & Wayne Cos.:		
Class I	14.95	2.35
Class II	14.85	2.35
Class III	14.65	2.35
Class IV	9.25	2.35
Truck Drivers:		
All Counties, except Ford (N ½ of Co.) & Iroquois (N & SW Parts of Co.):		
Group I	14.325	1.15 + 51.00a
Group II	14.725	1.15 + 51.00a
Group III	14.925	1.15 + 51.00a
Group IV	15.175	1.15 + 51.00a

DECISION NO. IL82-2003 - MOD. #2
(47 FR 9659 - March 5, 1982)
Adams, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Clinton, DeKalb, Fulton, Greene, Hancock, Henderson, Henry, Jersey, JoDaviess, Knox, LaSalle, Lee, Livingston, Logan, McDonough, McLean, Macoupin, Marshall, Mason, Menard, Mercer, Monroe, Montgomery, Morgan, Ogle, Pike, Putnam, Randolph, Rock Island, Schuyler, Scott, Stark, Stephenson, Warren, Washington, Whiteside, Winnebago, & Woodford Counties, Illinois

	Basic Hourly Rates	Fringe Benefits
Change:		
Painters:		
Area 6:		
Carroll, Henry (N½ inclu. Interstate 80), Mercer, Rock Island, Warren (exclu. part N. to Center of East-West Hwy at Alexis), & Whiteside (W. of St. Rte. #78) Cos.:		
Sign	$13.77	$3.04
Brush; Roller	14.92	3.04
Drywall Tapers; Sandblasting; Spray; & Structural Steel	15.42	3.04
Henderson, Henry (S½ to Interstate 80), Knox, Stark, & Warren (N. to Center of East-West Hwy at Alexis) Cos.:		
Brush; Roller	12.50	1.00
36 ft. above ground; Swing Stage; Window Jacks & Structural Steel	12.75	1.00
Tapers	12.85	1.00
Brushing-Rolling of Epoxy; Working Foremen; & Spray	13.00	1.00

DECISION NO. GA82-1038 - MOD. #1
(47 FR 34299 - August 6, 1982
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

	Basic Hourly Rates	Fringe Benefits
Change:		
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 for all hours worked.		

DECISION NO. IA82-4030 - MOD. #4
(47 FR 26537 - 6/18/82)
Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Cos., Iowa

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Zone 4:		
Carpenters & floor layers	$15.35	2.48
Millwrights & pile-drivermen	16.05	2.48
Elevator constructors:		
Zones 1, 5, 6 & 7:		
Mechanics	15.085	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
ADD:		
Marble, tile & terrazzo finishers - Zone 8	12.09	

DECISION NO. MD80-3047 - MOD. #5
(45 FR 57922 - August 29, 1980)
ALLEGANY & GARRETT COUNTIES, MARYLAND

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS	13.54	1.80
CARPENTERS	12.71	1.99
CEMENT MASONS	14.50	.75
ELECTRICIANS		
Allegany County	14.20	2.20+ 3.75%
Garrett County	14.60	2.20+ 3.75%
IRONWORKERS	14.12	2.90
LABORERS:		
Unskilled, landscape workers, tool checkers, dumpmen, handymen & truck spotters	10.45	2.70
Power tool operators, masons & plasterers tenders, mortar mixer by hand, scaffold builders, hod carriers, concrete puddlers, pipe layers, chainmen-rodmen, rammers & grade checkers	10.61	2.70
Mortar mixer by machine	10.70	2.70
Barco tampers	10.78	2.70
Blaster/dynamite & wagon drill operator (air track)	10.83	2.70
Tunnel workers:		
Caisson, driller & mucker	11.47	2.70
Labor-unskilled	11.03	2.70
PILEDRIVERMEN	13.06	1.99
TRUCK DRIVERS:		
Group 1	11.95	2.70
Group 2	11.15	2.70
Group 3	11.40	2.70
Group 4	11.65	2.70
Group 5	11.95	2.70

DECISION NO. MO81-4055 - MOD. #3
(46 FR 35884 - July 10, 1981)
PULASKI COUNTY, MISSOURI

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS, STONEMASONS & TILE LAYERS	13.75	.50
CARPENTERS:		
Projects under $350,000.00	13.96	2.05
Projects $350,000.00 and over	14.46	2.05

DECISION NO. LA82-4020 - MOD. #6
(47 FR 19880 - 5/7/82)
Statewide Louisiana

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Cement masons - Zone 2	$14.49	
Plasterers - Zone 3	15.34	

DECISION NO. LA82-4022 - MOD. #3
(47 FR 19877 - 5/7/82)
Calcasieu Par., Louisiana

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Cement masons	14.49	
Plasterers	15.34	

DECISION NO. NM82-4031 - Mod. #1
47FR26540 - June 18, 1982
STATEWIDE, NEW MEXICO

CHANGE:	Basic Hourly Rates	Fringe Benefits
Asbestos workers	$15.88	2.30
BRICKLAYERS-STONEMASONS:		
Zone I-A	12.86	1.62
Zone I-B	14.36	1.62
Zone I-C	15.11	1.62
Zone II	12.96	1.37
Zone III	14.46	1.37
Zone IV	12.96	1.42
Zone V	14.46	1.42
Zone VIA	12.66	1.42
Zone VIB	14.16	1.42
Zone VII	14.19	1.32
Zone VIII	14.19	1.32
Zone IX	12.44	1.32
ELECTRICIANS ZONE I:		
Area 1-A	15.35	Y
Area 1-B	16.73	Y
Area 1-C	17.65	Y
Area 1-D	19.34	Y
Electricians ZONE II Y-3-1/2% + $2.00	17.65	Y
CABLE SPLICERS ZONE I:		
Area 1-A	16.89	K
Area 1-B	18.27	K
Area 1-C	19.19	K
Area 1-D	20.88	K
CABLE SPLICERS ZONE II K--3-1/2% + $2.00	19.19	K
ELEVATOR CONSTRUCTORS:		
AREA I	14.91	JJ
APEA II	11.69	JJ
JJ - $2.465 + seven paid Holidays; and employees with 6 mos. to 5 yrs. of service 6%; over 5 yrs. 8% of basic hourly rate.		
IRONWORKERS - Zone I	13.20	2.83
IRONWORKERS - Zone II:		
Area 1	13.50	2.83
Area 2	14.75	2.83
Area 3	15.75	2.83
Area 4	16.00	2.83
IRONWORKERS - Zone III	12.55	2.95
IRONWORKERS - Zone IV	13.55	2.95

CHANGE:	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK		
AREA A		
LINEMEN-TECHNICIANS		
Zone I	$15.35	P
Zone II	16.73	P
Zone III	17.65	P
Zone IV	19.34	P
CABLE SPLICERS		
Zone I	16.89	P
Zone II	18.27	P
Zone III	19.19	P
Zone IV	20.88	P
EQUIPMENT OPR. (includes helicopter op.)		
Zone I	14.58	P
Zone II	15.96	P
Zone III	16.88	P
Zone IV	18.57	P
EQUIPMENT MECHANIC (include helicopter mech.)		
Zone I	13.35	P
Zone II	14.73	P
Zone III	15.65	P
Zone IV	17.34	P
POWDERMAN		
Zone I	13.35	P
Zone II	14.73	P
Zone III	15.65	P
Zone IV	17.34	P
GROUNDMAN & JACKHAMMER OPRS:		
Zone I	10.90	P
Zone II	12.28	P
Zone III	13.20	P
Zone IV	14.89	P
P - 3-1/2% + $2.00		

DECISION NO. NM82-4031

CHANGE CLASSIFICATION AND DEFINITIONS FOR ELECTRICIANS-CABLE SPLICERS "ZONE I" TO READ AS FOLLOWS:

ELECTRICIANS-CABLE SPLICERS - ZONE I

AREA 1 - Bernalillo, Catron, Chaves, Cibola, Colfax, Curry. DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia, White Sands Missile Range, and that portion of Fort Bliss in New Mexico.

AREA 1-A

Cities and Towns Basing Points and Miles from Main Post Office

*Albuquerque - 25 miles	Roswell - 12 miles
Santa Fe - 10 miles	Ruidoso - 12 miles
Las Vegas - 8 miles	Portales - 12 miles
Farmington - 6 miles	Carrizozo - 12 miles
Raton - 6 miles	Clovis - 12 miles
Tucumcari - 6 miles	Gallup - 10 miles
Aztec - 6 miles	**Pojoaque - 2 miles

*The eastern edge of the Albuquerque Zone extends no further than the western boundary of the Village of Tijeras.

**All areas adjacent to Projoaque that are over two (2) miles distance from the main post office in that town will be zoned out of Santa Fe.

AREA 1-B - Extending up to 20 miles beyond Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 9 percent of the journeyman rate of Zone 1.

AREA 1-C - Extending up to 30 miles beyond Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 15 percent of the journeyman rate for Zone 1.

AREA 1-D- Anything beyond 30 miles from Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 26 percent of the journeyman rate for Zone 1.

FOR ESTABLISHING the outlying free zones from the Albuquerque free zone ONLY, Zone 2 shall extend up to 10 miles beyond zone 1, Zone 3 shall extend up to 20 miles beyond Zone 1, and Zone 4 any thing beyond 20 miles from Zone 1

FOR WORK IN LOS ALAMOS COUNTY, USE THE ZONE THREE (3) RATE.

DECISION NO. NM82-4031

CHANGE CLASSIFICATION AND DEFINITIONS FOR COMMERCIAL LINE WORK COVERING

"AREA-A" TO READ AS FOLLOWS:

COMMERCIAL LINE WORK

AREA A - Bernalillo, Catron, Chaves, Cibola, Colfax, Curry. DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia, White Sands Missile Range, and that portion of Fort Bliss in New Mexico.

ZONE I

Cities and Towns Basing Points and Miles from Main Post Office

*Albuquerque - 25 miles	Roswell - 12 miles
Santa Fe - 10 miles	Ruidoso - 12 miles
Las Vegas - 8 miles	Portales - 12 miles
Farmington - 6 miles	Carrizozo - 12 miles
Raton - 6 miles	Clovis - 12 miles
Tucumcari - 6 miles	Gallup - 10 miles
Aztec - 6 miles	**Pojoaque - 2 miles

*The eastern edge of the Albuquerque Zone extends no further than the western boundary of the Village of Tijeras.

**All areas adjacent to Projoaque that are over two (2) miles distance from the main post office in that town will be zoned out of Santa Fe.

ZONE II - Extending up to 20 miles beyond Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 9 percent of the journeyman rate of Zone 1.

ZONE III - Extending up to 30 miles beyond Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 15 percent of the journeyman rate for Zone 1.

ZONE IV - Anything beyond 30 miles from Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 26 percent of the journeyman rate for Zone 1.

FOR ESTABLISHING the outlying free zones from the Albuquerque free zone ONLY, Zone 2 shall extend up to 10 miles beyond zone 1, Zone 3 shall extend up to 20 miles beyond Zone 1, and Zone 4 any thing beyond 20 miles from Zone 1

FOR WORK IN LOS ALAMOS COUNTY, USE THE ZONE THREE (3) RATE.

DECISION NO. NY81-3033 - MOD. #3
(46 FR 30277 - June 5, 1981)
BROOME & CHENANGO COUNTIES, NEW YORK

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLUMBERS & STEAMFITTERS		
Total Project Cost Over $500,000	14.23	2.19+5%
Total Project Cost Under $500,000	11.41	2.19+5%

DECISION NO. TX81-4064 - MOD. #6
(46 FR 40487 - 8/7/81)
El Paso County, Texas

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Electricians	$12.40	.80+3⅛%
Cable splicers	12.65	.80+3⅛%

DECISION NO. TX82-4029 - MOD. #4
(47 FR 26552 - 6/18/82)
Bell,Bosque,Coryell, Falls,Hill & McLennan Cos., Texas

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Zone 1:		
Electricians	13.45	.80+8½%
Cable splicers	14.45	.80+8½%

DECISION NO. UT81-5156 - Mod. #10
(46 FR 48870 - October 2, 1981)
Statewide, Utah

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$16.01	$2.39
Power Equipment Operators: Heavy and Highway Construction: Areas 1 and 2 - Groups 1 thru 11 - FRINGE BENEFITS ONLY		5.37

DECISION NO. WY82-5106 - Mod. #2
(47 FR 10968 - March 12, 1982)
Converse, Goshen, Laramie, Natrona, Niobrara and Platte Counties, Wyoming

	Basic Hourly Rates	Fringe Benefits
Change:		
Laborers:		
Building Construction:		
Group 1	$8.58	$2.75
Group 2	8.83	2.75
Group 3	9.08	2.75
Group 4	9.08	2.75
Group 5	9.13	2.75
Group 6	8.98	2.75
Group 7	8.88	2.75
Group 8	8.73	2.75
Group 9	9.48	2.75

SUPERSEDEAS DECISION

STATE: California

COUNTIES: Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tuolumne, Yolo and Yuba

DECISION NUMBER: CA82-5120

DATE: Date of Publication

Supersedes Decision No. CA81-5119 dated May 15, 1981, in 46 FR 27017

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	$24.40	$3.31
BOILERMAKERS	20.01	3.59
BRICKLAYERS; Stonemasons:		
Area 1	18.85	5.75
Area 2	19.05	2.95
Area 3	17.35	3.05
Area 4	16.28	4.29
Area 5	15.18	3.27
Area 6	19.00	3.87
Area 7	17.47	3.80
BRICK TENDERS:		
Area 1	13.12	4.95
Area 2	14.73	3.05
CARPENTERS:		
Area 1:		
Carpenters; Millwrights	18.45	6.225
Hardwood Floorlayers; Shinglers; Power Saw Operator; Steel Scaffold Erector and Steel Shoring; Saw Filers	18.60	6.225
Area 2:		
Carpenters	17.55	6.225
Hardwood Floorlayers; Shinglers; Power Saw Operators; Steel Scaffold Erectors and Steel Shoring; Saw Filers	17.70	6.225
CEMENT MASONS:		
Cement Masons	16.30	5.93
Mastic; Magnesite; All Composition Masons	15.85	5.48
Men working from Swinging or slip form scaffold	15.85	5.48
COMMUNICATION TECHNICIAN	12.85	3.07
DRYWALL INSTALLERS	17.18	6.195

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS:		
Area 1:		
Electricians	$22.56	$5.98
Area 2:		
Electricians	12.00	3.46
Area 3:		
Electricians	22.78	4.82
Cable Splicers	24.91	4.89
Area 4:		
Electricians	19.81	4.88
Cable Splicers	22.29	4.97
Area 5:		
Electricians	23.01	5.29
Cable Splicers	25.01	5.35
Area 6:		
Electricians	17.08	5.41
Cable Splicers	18.45	5.45
Area 7:		
Electricians	21.85	4.46
Cable Splicers	24.04	4.53
Area 8:		
Electricians	9.25	1.43
Area 9:		
Electricians	19.66	6.86
Cable Splicers	22.12	6.93
Area 10:		
Electricians	22.30	4.86
Cable Splicers	22.30	4.86
Area 11:		
Electricians	21.20	6.19
Cable Splicers	23.85	6.27
Area 12:		
Electricians	22.93	4.94
Cable Splicers	25.80	5.02
Area 13:		
Electricians	21.00	6.05
Cable Splicers	23.63	6.13

	Basic Hourly Rates	Fringe Benefits
ELEVATOR CONSTRUCTORS:		
Mechanics	$27.295	$2.69+a
Helpers	19.11	2.69+a
Probationary Helpers	13.65	
GLAZIERS:		
Area 1	20.10	5.24
Area 2	15.88	6.32
Area 3	15.40	4.98
Area 4	13.58	2.00
IRONWORKERS:		
Fence Erectors	16.41	7.03
Reinforcing; Ornamental; Structural	17.30	7.03
LATHERS:		
Area 1	17.43	3.63
Area 2	12.35	2.17
Area 3	13.70	1.49
Area 4	16.71	3.08
Area 5	15.43	2.95
Area 6	15.93	4.90
Area 7	16.12	4.15
Area 8	11.85	.01
Area 9	11.92	4.84
PAINTERS:		
Area 1:		
Brush	13.39	4.60
Spray	14.14	4.60
Sheetrock Tapers; Swing Stage; Scaffold; Sandblaster; Structural Steel	13.79	4.60
Area 2:		
Brush	16.20	2.57
Spray, Sandblasting; Taping	16.70	2.57
Area 3:		
Brush	20.93	3.93
Tapers	21.73	3.93
Area 4:		
Brush	15.93	1.47
Spray; Paperhangers; Tapers	16.43	1.47
Area 5:		
Brush	19.38	5.13
Spray	19.88	5.13
Tapers	19.68	5.13

	Basic Hourly Rates	Fringe Benefits
PAINTERS: (Cont'd)		
Area 6:		
Brush; Pot Tender; Rollers	$ 9.80	$1.35
Spray; Sandblasters; Structrual Steel; Swing Stage; Tapers	10.30	1.35
Area 7:		
Brush	19.49	5.13
Spray	19.99	5.13
Tapers	20.53	5.13
Area 8:		
Brush	11.08	2.67
Spray; Sandblasters; Structural Steel; Swing Stage; Tapers; Paperhangers	11.33	2.67
PLASTERERS:		
Area 1	15.77	4.43
Area 2	15.80	5.85
Area 3	15.06	2.61
Area 4	16.06	5.91
Area 5	15.93	4.39
Area 6	13.95	6.65
Area 7	20.05	7.25
Area 8	14.97	3.57
PLUMBERS:		
Area 1	22.67	5.18
Area 2	22.23	5.84
PLUMBERS; Steamfitters:		
Area 1	19.72	6.71
Area 2	20.34	2.43
Area 3	26.34	9.37
Area 4	24.17	7.80
Area 5	21.39	5.72
Area 6	19.00	5.43
Area 7	26.29	5.69
Area 8	14.32	8.30
ROOFERS:		
Area 1:		
Roofers	16.25	5.87
Mastic Workers; Kettlemen (2 kettles w/o pumps)	16.50	5.87
Bitumastic; Enamelers; Pipewrappers; Coal tar built up	18.25	5.87

	Basic Hourly Rates	Fringe Benefits
ROOFERS: (Cont'd)		
Area 2:		
Roofers	$16.85	$2.59
Area 3:		
Roofers	14.51	2.42
Area 4:		
Roofers	15.75	6.39
Mastic Workers; Kettlemen (2 kettles w/o pumps)	16.00	6.39
Bitumastic; Enamelers; Pipewrappers; Coal pitch	17.75	6.39
Area 5:		
Roofers	10.32	1.15
Area 6:		
Roofers	18.35	3.40
Area 7:		
Roofers	15.90	5.89
Mastic Workers; Kettlemen (2 kettles w/o pumps)	16.15	5.89
Bitumastic; Enamelers; Pipewrappers; Coal tar	17.90	5.89
Area 8:		
Roofers	14.30	5.99
Enamelers and Pitch	16.30	5.99
Area 9:		
Roofers; Ketttleman (1 kettle)	16.36	3.99
SHEET METAL WORKERS:		
Area 1	22.90	4.12
Area 2	17.93	4.50
Area 3	16.51	5.94
Area 4	18.05	4.02
Area 5	19.52	3.90
Area 6	22.06	4.92
Area 7	17.80	3.56
Area 8	22.16	4.70
SOFT FLOOR LAYERS:		
Area 1	17.31	2.85
Area 2	13.74	.90
Area 3	19.19	3.64
SPRINKLER FITTERS:		
Area 1	22.77	4.99
Area 2	21.87	2.83

	Basic Hourly Rates	Fringe Benefits
STEAMFITTERS:		
Area 1	$27.66	$4.32
TERRAZZO WORKERS:		
Area 1	18.85	5.75
Area 2	16.28	4.29
TILE SETTERS:		
Area 1	20.36	3.82
Area 2	18.02	3.05
Area 3	14.60	2.55
Area 4	16.73	3.43
TILE FINISHERS:		
Area 1	14.25	3.88
Area 2	11.90	1.90
LABORERS:		
Group 1	14.53	4.95
Group 1(a)	14.755	4.95
Group 1(b)	15.03	4.95
Group 1(c)	14.58	4.95
Group 1(d)	14.78	4.95
Group 1(e)	15.08	4.95
Griup 1(f)	15.115	4.95
Group 1(g)	14.73	4.95
Group 2	14.38	4.95
Group 3	14.28	4.95
Gunnite:		
Group 1	14.99	4.95
Group 2	14.38	4.95
Group 3	14.28	4.95
POWER EQUIPMENT OPERATORS:		
Group 1:		
Area 1	13.98	8.75
Area 2	15.98	8.75
Group 2:		
Area 1	14.44	8.75
Area 2	16.44	8.75
Group 3:		
Area 1	14.72	8.75
Area 2	16.72	8.75
Group 4:		
Area 1	15.44	8.75
Area 2	17.44	8.75
Group 5:		
Area 1	15.72	8.75
Area 2	17.72	8.75
Group 6:		
Area 1	15.92	8.75
Area 2	17.92	8.75

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd)		
Group 7:		
Area 1	$16.12	$8.75
Area 2	18.12	8.75
Group 8:		
Area 1	16.70	8.75
Area 2	18.70	8.75
Group 9:		
Area 1	16.99	8.75
Area 2	18.99	8.75
Group 10:		
Area 1	17.28	8.75
Area 2	19.28	8.75
Group 10-A:		
Area 1	17.44	8.75
Area 2	19.44	8.75
Group 11:		
Area 1	17.67	8.75
Area 2	19.67	8.75
Group 11-A:		
Area 1	19.19	8.75
Area 2	21.19	8.75
Group 11-B:		
Area 1	19.56	8.75
Area 2	21.56	8.75
Group 11-C:		
Area 1	19.98	8.75
Area 2	21.98	8.75
TRUCK DRIVERS:		
Group 1	14.20	5.39
Group 2	14.37	5.39
Group 3	14.30	5.39
Group 4	14.31	5.39
Group 5	14.32	5.39
Group 6	14.33	5.39
Group 7	14.35	5.39
Group 8	14.37	5.39
Group 9	14.38	5.39
Group 10	14.40	5.39
Group 11	14.41	5.39
Group 12	14.45	5.39
Group 13	14.46	5.39
Group 14	14.47	5.39
Group 15	14.50	5.39

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS: (Cont'd)		
Group 16	$14.51	$5.39
Group 17	14.52	5.39
Group 18	14.54	5.39
Group 19	14.55	5.39
Group 20	14.56	5.39
Group 21	14.56	5.39
Group 22	14.64	5.39
Group 23	14.56	5.39
Group 24	14.74	5.39
Group 25	14.75	5.39
Group 26	14.75	5.39
Group 27	14.78	5.39
Group 28	14.80	5.39
Group 29	14.84	5.39
Group 30	14.85	5.39
Group 31	14.88	5.39
Group 32	14.94	5.39
Group 33	14.87	5.39
Group 34	15.09	5.39
Group 35	15.19	5.39
Group 36	15.24	5.39
Group 37	15.39	5.39
Group 38	15.54	5.39

AREA DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Del Norte, Humboldt, Marin, Napa, San Francisco, San Mateo, Solano, and Sonoma Counties
Area 2: Alameda and Contra Costa Counties
Area 3: Mariposa and Merced Counties
Area 4: El Dorado, Nevada, Placer, Sacramento, Sutter, Yolo, and Yuba Counties
Area 5: Monterey and Santa Cruz Counties
Area 6: San Benito and Santa Clara Counties
Area 7: Amador, Calaveras, San Joaquin, and Tuolumne Counties

BRICK TENDERS:
Area 1: San Francisco and San Mateo Counties
Area 2: Remaining Counties

ELECTRICIANS:
Area 1: Alameda County
Area 2: Amador, Sacramento, Sutter, Yolo, and Yuba Counties; El Dorado, Nevada, and Placer Counties (those portions west of the Main Sierra Mountain Watershed)
Area 3: Those portions of El Dorado, Nevada, and Placer Counties lying east of the Main Watershed Divide
Area 4: Calaveras and San Joaquin Counties
Area 5: Contra Costa County
Area 6: Del Norte and Humboldt Counties
Area 7: Marin and Sonoma Counties
Area 8: Mariposa, Merced, and Tuolumne Counties
Area 9: Monterey, San Benito, and Santa Cruz Counties
Area 10: Napa and Solano Counties
Area 11: Santa Clara County
Area 12: San Francisco County
Area 13: San Mateo County

GLAZIERS:
Area 1: Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, and Santa Cruz Counties; Solano County (southwest from east of Fairfield); and Sonoma County
Area 2: Amador, Calaveras, El Dorado, and Mariposa Counties; Merced County (north of the City of Livingston); Nevada, Placer, Sacramento, Yolo, and Yuba Counties
Area 3: Remaining portions of Merced County
Area 4: Del Norte and Humboldt Counties

LATHERS:
Area 1: Alameda and Contra Costa Counties
Area 2: Humboldt, Nevada, Placer, and Tehama Counties
Area 3: Calaveras and San Joaquin Counties
Area 4: Marin and Sonoma Counties
Area 5: Monterey and Santa Cruz Counties
Area 6: San Francisco and San Mateo Counties
Area 7: San Benito and Santa Clara Counties
Area 8: Mariposa, Merced and Tuolumne Counties
Area 9: Amador, El Dorado, Sacramento, and Yolo Counties

AREA DESCRIPTIONS (Cont'd)

PAINTERS:
Area 1: Amador, Calaveras, and San Joaquin Counties
Area 2: Mariposa, Merced,and Tuolumne Counties
Area 3: Monterey, San Benito, San Mateo, Santa Clara and Santa Cruz Counties (excluding portions of the Lake Tahoe Area)
Area 4: Lake Tahoe Area
Area 5: Marin, San Francisco, and Sonoma Counties
Area 6: Sutter and Yuba Counties
Area 7: Alameda, Contra Costa, El Dorado, Napa, Nevada, Placer, Sacramento, Solano, and Yolo Counties (excluding portions of Counties in the Lake Tahoe Area)
Area 8: Del Norte and Humboldt Counties

PLASTERERS:
Area 1: Alameda and Contra Costa Counties
Area 2: Fresno County
Area 3: Monterey County
Area 4: Amador, Calaveras, El Dorado, Nevada, Placer, Sacramento, San Joaquin, Sutter, Yolo, and Yuba Counties
Area 5: Del Norte, Humboldt, Marin, Napa, Solano, and Sonoma Counties
Area 6: Mariposa, Merced, and Tuolumne Counties
Area 7: San Francisco and San Mateo Counties
Area 8: San Benito, Santa Clara, and Santa Cruz Counties

PLUMBERS:
Area 1: Alameda County
Area 2: Contra Costa County

PLUMBERS; Steamfitters:
Area 1: Amador County (northern half); El Dorado, Sacramento, Yolo, Nevada and Placer Counties (excluding Lake Tahoe Area)
Area 2: Lake Tahoe Area
Area 3: Marin, San Francisco, and Sonoma Counties
Area 4: San Benito, and Santa Clara Counties
Area 5: San Mateo County
Area 6: Amador County (southern half); Calaveras, Mariposa, Merced, Monterey, San Joaquin, Santa Cruz, Sutter, Tuolumne, and Yuba Counties
Area 7: Napa and Solano Counties
Area 8: Del Norte and Humboldt Counties

ROOFERS:
Area 1: Alameda and Contra Costa Counties
Area 2: Calaveras, Mariposa, Merced, San Joaquin, and Tuolumne Counties
Area 3: El Dorado, Placer, Sutter, and Yuba Counties
Area 4: Marin, Napa, Solano, and Sonoma Counties
Area 5: Del Norte and Humboldt Counties
Area 6: Monterey and Santa Cruz Counties
Area 7: San Francisco and San Mateo Counties
Area 8: Amador, Sacramento, and Yolo Counties
Area 9: San Benito and Santa Clara Counties

AREA DESCRIPTIONS (Cont'd)

SHEET METAL WORKERS:
Area 1: Alameda, Contra Costa, Napa, and Solano Counties
Area 2: Calaveras and San Joaquin Counties
Area 3: Amador, El Dorado, Nevada, Placer, Sacramento, Sutter, Yolo, and Yuba Counties
Area 4: Mariposa, Merced, and Tuolumne Counties
Area 5: San Mateo County
Area 6: San Francisco County
Area 7: Del Norte and Humboldt Counties
Area 8: Marin and Sonoma Counties

SOFT FLOOR LAYERS:
Area 1: Amador, Calaveras, and Merced Counties (east of the San Joaquin River); San Joaquin, Sacramento, Sutter, Tuolumne, Yolo, and Yuba Counties; El Dorado, Nevada, and Placer Counties (those portions excluding the Lake Tahoe Area)
Area 2: Lake Tahoe Area
Area 3: Alameda, Contra Costa, Marin, Merced, Monterey, Napa, SanBenito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma Counties

SPRINKLER FITTERS:
Area 1: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties
Area 2: Remaining Counties

STEAMFITTERS:
Area 1: Alameda and Contra Costa Counties

TERRAZZO WORKERS:
Area 1: Alameda, Contra Costa, Del Norte, Humboldt, Marin, Napa, San Francisco, San Mateo, Solano, and Sonoma Counties
Area 2: El Dorado, Nevada, Placer, Sacramento, Sutter, Yolo, and Yuba Counties

TILE SETTERS:
Area 1: Alameda, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Mateo, Santa Clara, Solano, Sonoma, Sutter, Yolo, and Yuba Counties
Area 2: Amador, Calaveras, San Joaquin, and Tuolumne Counties
Area 3: Mariposa and Merced Counties
Area 4: Monterey and Santa Cruz Counties

TILE FINISHERS:
Area 1: Alameda, Contra Costa, Del Norte, Humboldt, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Sonoma, and Solano Counties
Area 2: Amador, Calaveras, El Dorado, Nevada, Placer, Sacramento, San Joaquin, Sutter, Yolo, and Yuba Counties

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
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. Six Paid Holidays: A through F

LABORERS

Group 1: Asphalt Ironers and Rakers; Asphalt Spreader Boxes (all types); Barko, Wacker and similar type Tampers; Buggy-mobile; Chainsaw, Faller, Logloader and Bucker; Compactors or all types; Concrete and Magnesite Mixer, 1/2 yd. and under; Concrete Pan Work; Concrete Saw; Concrete Sander; Cribber and/or Shoring; Cut Granite Curb Setter; Form Raisers; Slip Forms; Green Cutters, Headerboardmen, Hubsetters, Aligners; Jackhammer Operators; Jacking of pipe over 12 inches; Jackson and similar type Compactors; Kettlemen, Potmen and Men applying asphalt, lay-kold, creosote, lime, caustic and similar type materials; Lagging, Sheeting, Whaling, Bracing, Trenchjacking, hand-guided Lagging Hammer; Magnesite, Epoxyresin, Fiberglass, Mastic Workers (wet or dry); Perma Curbs; Precast-manhole Setters; Cast-in-place Manhole Form Setters; Pressure Pipe Tester; Pavement Breakers and Spaders, including Tool Grinder; Pipelayers, Caulkers, Banders, Pipewrappers, Conduit Layers, Plastic Pipelayers; Post Hole Diggers, air, gas, and electric; Power Broom Sweepers; Power Tampers of all types (except as shown in Group 2); Ram Set Gun and Stud Gun; Riprap-stonepaver and Rock-slinger, including placing of sacked concrete and/or sand (wet or dry); Rotary Scarifier, multiple Head Concrete Chipper; Davis Trencher, 300 or similar type (and all small Trenchers); Roto and Ditch Witch; Roto-tiller; Sandblasters, Potman, Gunman, Nozzleman; Signalling and Rigging; Tank Cleaners; Tree Climbers; Vibra-screed, Bull Float in connection with Laborers' work; Vibrators; Dri-pak-it Machine; High Pressure Blow Pipe (1½" or over, 100 lbs. pressure and over); Hydro Seeder and similar type; Laser Beam in connection with Laborers' work

Group 1(a): Joy Drill Model TWM-2A; Gardener-Denver Model DH143 and similar type drills; Track Drillers; Jack Leg Drillers; Diamond Drillers; Wagon Drillers; Mechanical Drillers, all types regardless of type or method of power; Multiple Unit Drills; Blasters and Powdermen; all work of loading, placing and blasting of all power and explosives of whatever type re-

LABORERS (Cont'd)

Group 1(b); Sewer Cleaners receive an additional $4.00 per day, $5.00 per day on recently active large diameter sewers or sewer manholes

Group 1(c): Burning and Welding in connection with Laborers' work

Group 1(d): Repair Trackmen and Road Beds (cut and cover work of subway after the temporary cover has been placed)

Group 1(e): Laborers on general construction work on or in Bell Hole Footings and Shaft

Group 1(f): Wire Winding Machine in Connection with Guniting or Shotcrete - Aligner

Group 1(g); Contra Costa County Only: Pipelayers, Caulkers, Banders, Pipewrappers, Conduit Layers and Plastic Pipelayers; Pressure Pipe Tester, no joint pipe and stripping of same, including repair of Voids, Precast Manhole Setters, Cast-in-place Manhole Form Setters

Group 2: Asphalt Shovelers; Cement Dumpers and handling dry cement or gypsum; Choke-setter and Digger (clearing work); Concrete Bucket Dumper and Chuteman; Concrete Chipping and Grinding; Concrete Laborers (wet or dry); Chuck Tender; High Pressure Nozzleman, Adductors; Groutcrew; Hydraulic Monitor (over 100 lbs. pressure); Loading and unloading, carrying and hauling of all rods and materials for use in reinforcing concrete construction; Pittsburgh Chipper and similar type Brush Shredders; Sloper; Singlefoot, hand held, Pneumatic Tamper; All pneumatic, air, gas and electric tools not listed in Groups 1 through 1(f); Jacking of Pipe under 12 inches

Group 3: All Cleanup work of debris, grounds and buildings including but not limited to street cleaners; Cleaning and washing windows; Construction Laborers including bridge and general Laborers; Dumpman; Load Spotter; Fire Watcher; Street Cleaners; Gardeners, Horticultural and Landscape Laborers; Jetting; Limbers; Brush Loaders; Pilers, Maintenance Landscape Laborers on new construction; Maintenance, Repair Trackmen and Road beds; Streetcar and Railroad Construction Track Laborers; Temporary air and water lines, Victaulic or similar; Tool Room Attendent; Fence Erectors; Guardrail Erectors; Pavement Markers (button setters)

GUNNITE

Group 1: Nozzleman (including Gunman, Potman); Rodmen; Groundman

Group 2: Reboundman

Group 3: General Laborers

POWER EQUIPMENT OPERATORS
AREAS I and II

Group 1: Assistants to Engineers (Brakeman; Fireman; Heavy Duty Repairman Tender; Oiler; Deckhand; Signalman; Switchman; Tar Pot Fireman); Partsman (heavy duty repair shop parts room)

Group 2: Compressor Operator; Concrete Mixer (up to and including 1 yard); Conveyor Belt Operator (tunnel); Fireman Hot Plant; Hydraulic; Monitor; Mechanical Conveyor (handling building materials); Mixer Box Operator (concrete plant); Pump Operator; Spreader Boxman (with screeds); Tar Pot Fireman (power agitated)

Group 3: Box Operator (bunker); Helicopter Radioman (Signalman); Motorman; Locomotive (30 tons or under); Oiler; Ross Carrier (construction job site); Rotomist Operator; Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Trenching Machine (maximum digging capacity 5 ft. depth); Tugger Hoist, single drum; Truck Crane Oiler; Boiler Tender

Group 4: Ballast Jack Tamper; Ballast Regulation; Ballast Tamper Multi-purpose; Boxman (asphalt plant); Elevator Operator (inside); Fork Lift or Lumber Stacker (construction job site); Line Master; Material Hoist (1 drum); Shuttlecar; Tie Spacer; Towermobile

Group 5: Compressor Operator (over 2); Concrete Mixers (over 1 yard); Concrete Pumps of Pumpcrete Guns; Generators; Grouting Machine; Press-weld (air operated); Pumps (over 1); Welding Machines (powered other than by electricity)

Group 6: BLH Lima Road Pactor or similar; Boom Truck or Dual Purpose A-Frame Truck; Concrete Batch Plants (wet or dry); Concrete Saws (self-propelled unit) on streets, highways, airports and canals; Drilling and Boring Machinery, vertical and horizontal (not to apply to Waterliners, Wagon Drills or Jackhammers); Gradesetter, Grade Checker (mechanical or other-wise); Highline Cableway Signalman; Locomotives (steam of over 30 tons); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mechanical Finishers (concrete) (Clary, Johnson, Bidwell Bridge Deck or similar types); Mechanical Burm, Curb and/or Curb and Gutter Machine, concrete or asphalt; Portable Crusher; Post Driver (M-1500 and similar); Power Jumbo Operator (setting slip forms, etc. in tunnels); Roller (except Asphalt); Screedman (Barber-Greene and similar)(asphaltic concrete paving); Self-propelled Compactor (single engine); Self-propelled Pipeline Wrapping Machine, Perault, CRC, or similar types); Slip Forms Pumps (lifting device for concrete forms); Small Rubber Tired Tractor; Surface Heater; Self-propelled Power Sweeper; Self-propelled Tape Machine; Auger-type drilling equipment, up to and including 30 ft. depth digging capacity M.R.C.

POWER EQUIPMENT OPERATORS (Cont'd)
AREAS I and II (Cont'd)

Group 7: Concrete Conveyor or Concrete Pump, Truck or equipment mounted (boom length to apply); Concrete Conveyor, building site; Deck Engineers; Dual Drum Mixer; Fuller Kenyon Pump and similar types; Gantry Rider (or similar); Hydra-hammer (or similar); Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Mixermobile; Pavement Breaker with or without Compressor Combination; Pipe Bending Machine (pipelines only); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Refrigeration Plant; Roller Operator (finish asphalt); Self-propelled boom type lifting device (center mount) (10 tons or less M.R.C.); Self-propelled Elevating Grader Plane; Slusher Operator; Small Tractor (with boom) Soil Tester; Truck type Loader; Welding Machines (Gasoline or diesel)

Group 8: Armor-Coater (or similar); Asphalt Plant Engineer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Dozer; Heading Shield Operator; Heavy Duty Repairman and/or Welder; Ken Seal Machine (or similar); Kolman Loader; Loader (up to 2 yards); Mechanical Trench Shield; Portable Crushing and Screening Plants; Puch Cat; Rubber Tired Earth-moving Equipment (up to and including 45 cu. yards "struck" M.R.C.) Euclids, T-Pulls, DW-10, 20, 21, and similar; Rubber Tired Dozer; Self-propelled Compactor with Dozer; Sheepfoot; Timber Skidder (rubber tired or similar equipment); Tractor drawn Scraper; Tractor (Trenching Machine; Tri-batch Paver; Tunnel Mole Boring Machine; Welder; Woods-mixer (and other similar Pugmill equipment)

Group 9: Canal Finger Drain Digger; Chicago Boom; Combination Mixer and Compressor (Gunite); Combination Slurry Mixer and/or Cleaner; Highline Cableway (5 tons and under); Lull Hi-lift or similar (20 ft. or over); Mucking Machine (rubber tired, rail or track type); Tracror (with boom) (D-6 or larger and similar)

POWER EQUIPMENT OPERATORS (Cont'd)
AREAS I and II

Group 10: Boom-type Backfilling Machine; Bridge Crane; Cary-lift (or similar); Chemical Grouting Machine, truck mounted); Combination Backhoe and Loader (up to and including 1/2 cu. yd. M.R.C.); Derrick (2 operators required when swing engine remote from Hoist); Derrick Barges (except excavation work); Do-mor Loader; Adams Ele-grader; Elevating Grader; Heavy Duty Rotary Drill Rig (including Caisson Foundation work and Euclid Loader and similar type; Robbins type drills); Koehring Skooper (or similar); Lift Slab Machine; (Vagtborg and similar types); Loader (2 yds. up to and including 4 yds.); Locomotive, 100 tons (single or multiple units); Multiple Engine Earthmoving Machine (Euclids, Dozers, etc.)(no tandem scraper); Pre-stress Wire Wrapping Machine; Reservoir-debris Tug (self-propelled floating); Rubber-tired Scraper, self-loading (paddle wheels, etc.); Shuttle Cat (reclaim station); Single engine Scraper over 45 yds.; Soil Stabilizer (P & H or equal); Sub-grader (Gurrier or other automatic type); Tractor, Compressor Drill Combination; Track Laying type Earth Moving Machine (single engine with tandem scrapers); Train loading station; Trenching Machine, multi-engine with sliping attachment, Jeffco or similar; Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons)

Group 10-A: Backhoe (hydraulic)(up to and including 1 cu. yd. M.R.C.); Backhoe (cable)(up to and including 1 cu. yd. M.R.C.); Combination Backhoe and Loader (over 3/4 cu. yd. M.R.C.); Continuous Flight Tie Back Auger (crane attached/separate controls); Cranes not over 25 tons, Hammerhead and Gantry; Gradalls (up to and including 1 cu. yd.); Power Blade Operator (single engine); Power Shovels, Clamshells, Draglines (up to and including 1 cu. yd. M.R.C)(Long Boom pay); Rubber-tired Scraper, self-loading (Paddle Wheel, twin engine); Self-propelled Boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); CMI Dual Lane Auto Grader SP-30 or similar

POWER EQUIPMENT OPERATORS (Cont'd)
AREAS I and II (Cont'd)

Group 11: Automatic Concrete Slip-form Paver (Gradesetter, Screedman); Automatic Railroad Car Dumper; Canal Trimmer with ditching attachments; Cary Lift, Campbell or similar, Continuous Flight Tie Back Auger (Crane attached, single controls); Cranes (over 25 tons up to and including 125 tons); Drott Travelift 650-A-1 or similar (45 ton or over); Euclid Loader when controlled from the Pullcat; Highline Cableway (over 5 tons); Loader (over 4 cu. yds., up to and including 12 cu. yds.); Miller Formless M-900 Slope Paver or similar (grade Setter required); Multiple Engine Scraper (when used as Push Pull); Power Blade Operator (multi-engine); Power Shovels, Clamshells, Draglines, Backhoes, Gradalls (over 1 cu. yd. and up to and including 7 cu. yds. M.R.C., Long Boom Pay); Rubber-tired Earthmoving Machines (multiple propulsion power units and two or more Scrapers) (up to and including 75 cu. yds. struck M.R.C.); Self-propelled Compactor (with multiple propulsion power unit); Blob or similar; Self-propelled Boom-type lifting device (center mount) (over 25 tons M.R.C.); Single engine Rubber-tired Earthmoving Machines (with Tandem Scrapers); Slipform Paver (concrete or asphalt) (Screedman required); Tandem Cats; Tower Cranes Mobile (including rail mounted); Trencher (pulling attached shield); Tower Cranes, Universal Liebher and similar types (in the erection, dismantling and moving of equipment); Wheel Excavator (up to and including 750 cu. yds. per hour); Whirley Crane (over 25 tons); Multi-earthmoving Equipment (up to and including seventy-five (75) cu. yds. "struck" M.R.C.); Truck mounted Hydraulic Crane when remote control equipped (over 10 tons up to and including 25 tons)

Group 11A: Band Wagons (in conjunction with wheel excavator); Cranes (over 125 tons); Loader (over 12 cu. yds., up to and including 18 cu. yds.); Power Shovels, Clamshells, Backhoes, Gradalls, and Draglines (over 7 cu. yds. M.R.C.); Rubber-tired Multi-purpose Earth Moving Machines (2 units over 75 cu. yds. "struck" M.R.C.); Wheel Excavator (over 750 cu. yds. per hour)

Group 11B: Loader (over 18 yds.)

Group 11C: Operator of Helicopter (when used in erection work); Remote controlled earthmoving equipment

TRUCK DRIVERS

Group 1: Bulk Cement Spreader (w/wo Auger, under 4 yards water level); Bus or Manhaul Driver; Concrete Pump Machine; Concrete Pump Truck (when Flat Rack Truck is used appropriate Flat Rack rate shall apply); Dump (under 4 yds. water level); Dumpcrete Truck (under 4 yds. water level); Dumpster (under 4 yds. water level); Escort or Pilot Car Driver; Nipper Truck (when Flat Rack Truck is used appropriate Flat Rack rate shall apply); Pickups; Skids (Debris Box, under 4 yds. water level); Team Drivers; Trucks (Dry Pre-batch Concrete Mix, under 4 yds. water level); Warehousemen

Group 2: Teamster Oiler and/or Greaser and/or Service Man

TRUCK DRIVERS (Cont'd)

Group 3: Bulk Cement Spreader (w/wo auger, 4 yd. and under 6 yds. water level); Dump (4 yds. and under 6 yds. water level); Dumpcrete (4 yds. and under 6 yds. water level); Dumpster (4 yds. and under 6 yds. water level); Skids (Debris Box, 4 yds. and under 6 yds. water level); Single Unit Flat Rack (2 axle unit); Industrial Lift Truck (mechanical Tailgate); Trucks (Dry Pre-batch Concrete Mix, 4 yds. and under 6 yds. water level)

Group 4: Jetting Truck and Water Truck (under 2,500 gallons)

Group 5: Road Oil Trucks or Boot Man

Group 6: Lift Jitneys, Fork Lift

Group 7: Transit Mix, Agitator (under 6 yards)

Group 8: Fuel and/or Grease Truck Driver or Fuelman

Group 9: Vacuum Truck, under 3,500 gallons

Group 10: Scissor Truck; single unit Flat Rack (2 axle unit); Industrial Lift Truck (mechanical tailgate); Small rubber tired tractor (when used within Teamsters' jurisdiction)

Group 11: Jetting Truck and Water Trucks, 2,500 gallons, under 4,000 gallons

Group 12: Combination Winch Truck with Hoist; Transit Mix Agitator (6 yards and under 8 yards)

Group 13: Vacuum Truck, 3,500 gallons and under 5,500 gallons

Group 14: Rubber-tired Muck Car (not self-loaded)

Group 15: Bulk Cement Spreader (w/wo auger, 6 yds. and under 8 yds. water level); Dump (6 yds. and under 8 yds. water level); Dumpcrete (6 yds. and under 8 yds. water level); Dumpster (6 yds. and under 8 yds. water level); Skids (Debris Box, 6 yds. and under 8 yds. water level); Trucks (Dry Pre-batch Concrete Mix, 6 yds. and under 8 yds. water level)

Group 16: A-Frame, Winch Truck; Buggymobile; Jetting and Water Truck (4,000 gallons and under 5,000 gallons); Rubber tired Jumbo

Group 17: Heavy Duty Transport (high bed)

Group 18: Ross Hyster and similar straddle Carrier

Group 19: Transit Mix Agitator (8 yds. through 10 yds.)

Group 20: Vacuum Truck (5,500 gallons and 7,500 gallons)

TRUCK DRIVERS (Cont'd)

Group 21: Jetting Truck and Water Truck (5,000 gallons and under 7,000 gallons)

Group 22: Combination Bootman and Road Oiler

Group 23: Transit Mix Agitator (over 10 yds. through 12 yds.)

Group 24: Bulk Cement Spreader (w/wo auger, 8 yds. and including 12 yds. water level); Dump (8 yds. and including 12 yds. water level); Dumpcrete (8 yds. and including 12 yds. water level); Self-propelled Street Sweeper with self-contained refuse bin; Skids (Debris Box, 8 yds. and including 12 yds. water level); Snow Go and/or Snow Plow; Truck (Dry Pre-batch Concrete Mix, 8 yds. and including 12 yds. water level and including 12 yds. water level)

Group 25: Heavy Duty Transport (Gooseneck Lowbed)

Group 26: Transit Mix Agitator (over 12 yds. through 17 yds.)

Group 27: Ammonia Nitrate Distributor Driver and Mixer; Bulk Cement Spreader (w/wo auger, over 12 yds. and including 18 yds. water level); Dump (over 12 yds. and including 18 yds. water level); Dumpcrete (over 12 yds. and including 18 yds. water level); Dumpster (over 12 yds. and including 18 yds. water level); Truck (Dry Pre-batch Concrete Mix, over 12 yds. and including 18 yds. water level)

Group 28: Double Gooseneck (7 or more axles); Heavy Duty Transport Tiller Man

Group 29: P. B. or similar type self-loading truck

Group 30: Transit Mix Agitator (over 14 yds. through 16 yds.)

Group 31: Bulk Cement Spreader (w/wo auger, over 18 yds. and including 24 yds. water level); Combination Dump and Dump Trailer; Dump (over 18 yds. and including 24 yds. water level); Dumpcrete (over 18 yds. and including 24 yds. water level); Dumpster (over 18 yds. and including 24 yds. water level); Skid (Debris Box, over 18 yds. and including 24 yds. water level); Transit Mix Agitator over 12 yds. through 16 yds.); Trucks (Dry Pre-batch Concrete Mix, over 17 yds. and including 24 yds. water level)

Group 32: Bulk Cement Spreader (w/wo auger, over 24 yds. and including 35 yds. water level); Dump (over 24 yds. and including 35 yds. water level); Dumpcrete (over 24 yds. and including 35 yds. water level); Dumpster (over 24 yds. and including 35 yds. water level); DW 10's, 20's, 21's and other similar Cat type, Terra Cobra, LeTournapulls, Tournarocker, Euclid and similar type equipment when pulling Fuel and/or Grease Tank Trailers or other misc. trailers; Skids (Debris Box, over 24 yds. and including 35 yds. water level); Trucks (Dry Pre-batch Concrete Mix, over 24 yds. and including 35 yds. water level)

Group 33: Truck Repairman

TRUCK DRIVERS (Cont'd)

Group 34: Bulk Cement Spreader (w/wo auger, over 35 yds. and including 50 yds. water level); Dump (over 35 yds. and including 40 yds. water level); Dumpcrete (over 35 yds. and including 50 yds. water level); Dumpster (over 35 yds. and including 50 yds. water level); Skids (Debris Box, over 35 yds. and including 50 yds. water level); Trucks (Dry Pre-batch Concrete Mix, over 35 yds. and including 50 yds. water level)

Group 35: DW 10's. 20's, 21's and other similar Cat type, Terra Cobra, LeTournapulls, Tournarocker, Euclid and similar type equipment while pulling Aqua/Pak or water tank trailers

Group 36: Bulk Cement Spreader (w/wo auger, over 50 yds. and under 65 yds. water level); Dump (over 50 yds. and under 65 yds. water level); Dumpcrete (over 50 yds. and under 65 yds. water level); Dumpster (over 50 yds. and under 65 yds. water level); Helicopter Pilot (when transporting men or materials); Skids (Debris Box, over 50 yds. and under 65 yds. water level); Trucks (Dry Pre-batch Concrete Mix, over 50 yds. and under 65 yds. water level)

Group 37: Bulk Cement Spreader (w/wo auger, over 65 yds. and including 80 yds. water level); Dump (65 yds. and including 80 yds. water level); Dumpcrete (over 65 yds. and including 80 yds. water level); Dumpster (over 65 yds. and including 80 yds. water level); Skids (Debris Box, 65 yds. and including 80 yds. water level); Trucks (Dry Pre-batch Concrete Mix, 65 yds. and including 80 yds. water level)

Group 38: Bulk Cement Spreader (w/wo auger, over 80 yds. and including 95 yds. water level); Dump (over 80 yds. and including 95 yds. water level); Dumpcrete (over 80 yds. and including 95 yds. water level); Dumpster (over 80 yds. and including 95 yds. water level); Skids (Debris Box, over 80 yds. and including 95 yds. water level); Trucks (Dry Pre-batch Concrete Mix, over 80 yds. and including 95 yds. water level)

AREA DESCRIPTIONS
FOR
POWER EQUIPMENT OPERATORS
AREAS I and II

**AREA I: All areas included in the description defined below which is based upon Township and Range Lines of Areas I and II.

Commencing in the Pacific Ocean on the extension of the Southerly line of Township 19S.
Thence Easterly along the Southerly line of Township 19S, crossing the Mt. Diablo Meridian to the S.W. corner of township 19S, range 6E, Mt. Diablo Base Line and Meridian,
Thence Southerly to the S.W. corner of township 20S, range 6E,
Thence Easterly to the S.W. corner of township 20S, range 13E,
Thence Southerly to the S.W. corner of township 21S, range 13E,
Thence Easterly to the S.W. corner of township 21S, range 17E,
Thence Southerly to the S.W. corner of township 22S, range 17E,
Thence Easterly to the S.E. corner of township 22S, range 17E,
Thence Southerly to the S.W. corner of township 23S, range 18E,
Thence Easterly to the S.E. corner of township 23S, range 18E,
Thence Southerly to the S.W. corner of township 24S, range 19E, falling on the Southerly Line of Kings County, thence Easterly along the Southerly Boundary of Kings County and the Southerly Boundary of Tulare County, to the S.E. corner of township 24S, range 29E,
Thence Northerly to the N.E. corner of township 21S, range 29E,
Thence Westerly to the N.W. corner of township 21S, range 29E,
Thence Northerly to the N.E. corner of township 13S, range 28E,
Thence Westerly to the N.W. corner of township 13S, range 28E,
Thence Northerly to the N.E. corner of township 11S, range 27E,
Thence Westerly to the N.W. corner of township 11S, range 27E,
Thence Northerly to the N.E. corner of township 10S, range 26E,
Thence Westerly to the N.W. corner of township 10S, range 26E,
Thence Northerly to the N.E. corner of township 9S, range 25E,
Thence Westerly to the N.W. corner of township 9S, range 25E,
Thence Northerly to the N.E. corner of township 8S, range 24E,
Thence Westerly to the N.W. corner of township 8S, range 24E,
Thence Northerly to the N.E. corner of township 6S, range 23E,
Thence Westerly to the S.E. corner of township 5S, range 19E,
Thence Northerly to the S.E. corner of township 5S, range 19E,
Thence Westerly to the N.W. corner of township 5S, range 19E,
Thence Northerly to the N.E. corner of township 3S, range 18E,
Thence Westerly to the N.W. corner of township 3S, range 18E,
Thence Northerly to the N.E. corner of township 2S, range 17E,
Thence Westerly to the N.W. corner of township 2S, range 17E,

AREA DESCRIPTIONS (Cont'd)
For
POWER EQUIPMENT OPERATORS
AREAS I and II

AREA I: (Cont'd)

Thence Northerly crossing the Mt. Diablo Baseline to the N.E. corner of township 2N, range 16E,
Thence Westerly to the N.W. corner of township 2N, range 16E,
Thence Northerly to the N.E. corner of township 3N, range 15E,
Thence Westerly to the N.E. corner of township 3N, range 15E,
Thence Northerly to the N.E. corner of township 4N, range 14E,
Thence Westerly to the N.W. corner of township 4N, range 14E,
Thence Northerly to the N.E. corner of township 5N, range 13E,
Thence Westerly to the N.E. corner of township 5N, range 13E,
Thence Northerly to the N.E. corner of township 10N, range 12E,
Thence Easterly to the S.E. corner of township 11N, range 14E,
Thence Northerly to the N.E. corner of township 11N, range 14E,
Thence Westerly to the N.E. corner of township 11N, range 10E,
Thence Northerly to the N.E. corner of township 15N, range 10E,
Thence Easterly to the S.E. corner of township 16N, range 11E,
Thence Northerly to the N.E. corner of township 16N, range 11E,
Thence Easterly to the S.E. corner of township 17N, range 14E,
Thence Southerly to the S.W. corner of township 14N, range 14E,
Thence Easterly to the S.E. corner of township 14N, range 15E,
Thence Southerly to the S.W. corner of township 13N, range 16E,
Thence Easterly to the S.E. corner of township 13N, range 16E,
Thence Southerly to the S.W. corner of township 12N, range 17E,
Thence Easterly along the Southern Line to township 12N to the Eastern Boundary of the State of California, to the State of California to the N.E. corner of township 17N, range 18E,
Thence Westerly to the N.W. corner of township 17N, range 11E,
Thence Northerly to the N.E. corner of township 20N, range 10E,
Thence Westerly to the N.W. corner of township 20N, range 20E,
Thence Northerly to the N.E. corner of township 21N, range 9E,
Thence Westerly to the N.W. corner of township 21N, range 9E,
Thence Northerly to the N.E. corner of township 22N, range 8E,
Thence Westerly to the N.W. corner of township 27N, range 8E,
Thence Northerly to the S.W. corner of township 27N, range 8E,
Thence Easterly to the S.E. corner of township 27N, range 8E,
Thence Northerly to the N.E. corner of township 28N, range 8E,
Thence Westerly to the N.W. corner of township 28N, range 7E,
Thence Northerly to the N.E. corner of township 30N, range 6E,
Thence Westerly to the N.W. corner of township 30N, range 1E,
Thence Northerly along the Mt. Diablo Meridian to the N.E. corner of township 34N, range 1W,
Thence Westerly to the N.W. corner of township 34N, range 6W,
Thence Southerly to the N.E. corner of township 32N, range 7W,
Thenece Westerly to the N.W. corner of township 32N, range 7W,
Thence Southerly to the S.W. corner of township 30N, range 7W,
Thence Easterly to the S.E. corner of township 30N, range 7W,

AREA DESCRIPTIONS (Cont'd)
For
POWER EQUIPMENT OPERATORS
AREAS I and II

AREA 1: (Cont'd)

Thence Southerly to the S.W. corner of township 16N, range 6W,
Thence Easterly to the S.E. corner of township 16N, range 6W,
Thence Southerly to the S.W. corner of township 14N, range 5W,
Thence Westerly to the S.E. corner of township 14N, range 7W,
Thence Northerly to the N.E. corner of township 14N, range 7W,
Thence Westerly to the N.W. corner of township 14N, range 7W,
Thence Northerly to the N.E. corner of township 15N, range 8W,
Thence Westerly to the S.E. corner of township 16N, range 12W,
Thence Northerly to the N.E. corner of township 16N, range 12W,
Thence Westerly to the N.W. corner of township 16N, range 12W,
Thence Northerly to the N.E. corner of township 18N, range 12W,
Thence Westerly to the N.W. corner of township 18N, range 14W,
Thence Southerly to the S.W. corner of township 18N, range 14W,
Thence Easterly to the S.E. corner of township 18N, range 14W,
Thence Southerly to the S.W. corner of township 16N, range 13W,
Thence Westerly to the N.W. corner of township 15N, range 14W,
Thence Southerly to the S.W. corner of township 14N, range 14W,
Thence Easterly to the S.E. corner of township 14N, range 14W,
Thence Southerly to the S.W. corner of township 13N, range 13W,
Thence Easterly to the S.E. corner of township 13N, range 13W,
Thence Southerly to the S.W. corner of township 11N, range 12W,
Thence Easterly to the S.E. corner of township 11N, range 12W,
Thence Southerly along the Eastern line to range 12W, to the Pacific Ocean excluding that portion of Northern California within Santa Clara County included within the folloiwng line:
Commencing at the N.W. corner of township 6S, range 3E, Mt. Diablo Baseline and Meridian:
Thence in a Southerly direction to the S.W. corner of township 7S, range 3E,
Thence in a Easterly direction to the S.E. corner of township 7S, range 4E,
Thence in a Northerly direction to the N.E. corner of township 6S, range 4E,
Thence in a Westerly direction to the N.W. corner of township 6S, range 3E, to the point of beginning which portion is a part of Area 2.

AREA 1: also includes that portion of Northern California within the following lines:
Commencing in the Pacific Ocean on an extension of the Southerly line to township 2N; Humboldt Baseline and Meridian:
Thence Easterly along the Southerly line of township 2N, to the S.W. corner of township 2N, range 1W,
Thence Southerly to the S.W. corner of township 1N, range 1W,

AREA DESCRIPTIONS
For
POWER EQUIPMENT OPERATORS
AREAS I and II

AREA 1: (Cont'd)

Thence Easterly along the Humboldt Baseline to the S.W. corner of township 1N, range 2E,
Thence Southerly to the S.W. corner of township 2S, range 2E,
Thence Easterly to the S.E. corner of township 2S, range 2E,
Thence Southerly to the S.W. corner of township 4S, range 3E,
Thence Easterly to the S.E. corner of township 4S, range 3E,
Thence Northerly to the N.E. corner of township 2S, range 3E,
Tehnce Westerly to the N.W. corner of township 2S, range 3E,
Thence Northerly crossing the Humboldt Baseline to the S.W. corner of township 1N, range 3E,
Thence Easterly along the Humboldt Baseline to the S.E. corner of township 1N, range 3E,
Thence Northerly to the N.E. corner of township 9N, range 3E,
Thence Westerly to the N.W. corner of township 9N, range 2E,
Thence Northerly to the N.E. corner of township 10N, range 1E,
Thence Westerly along the Northerly line to township 10N, into the Pacific Ocean.

AREA I: Also includes that portion of Northern California included within the following lines:
Commencing at the Northerly boundary of the State of California at the N.W. corner of township 48N, range 7W, Mt. Diablo Baseline and Meridian:
Thence Southerly to the S.W. corner of township 44N, range 7W,
Thence Easterly to the S.E. corner of township 44N, range 7W,
Thence Southerly to the S.W. corner of township 43N, range 6W,
Thence Easterly to the S.E. corner of township 43N, range 5W,
Thence Northerly to the N.E. corner of township 48N, range 5W, on the Northerly boundary of the State of California,
Thence Westerly along the Northerly boundary of the State of California to the point of beginning.

AREA II: All areas not included within AREA I as defined.

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: Iowa COUNTY: Webster
DECISION NO.: IA82-4044 DATE: Date of Publication
Supersedes Decision No. IA81-4095, dated 11/27/81 in 46 FR 58022.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$12.02	
CARPENTERS	6.50	
DRYWALL INSTALLERS	7.50	
DRYWALL FINISHERS	7.50	
CEMENT MASONS	9.00	
ELECTRICIANS	13.52	1.25+ 3-3/4%
IRONWORKERS	6.75	
LABORERS	$ 6.42	
PLUMBERS	14.90	2.80
SHEET METAL WORKERS	14.55	2.49
POWER EQUIPMENT OPS.:		
Backhoes	9.70	
Bobcat	8.80	
Cranes	8.67	
Front end loaders	9.70	

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 th labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: NEW MEXICO COUNTY: STATEWIDE
DECISION NO. NM82-4043 DATE: Date of Publication
SUPERSEDES DECISION NO. NM80-4101 dated December 19, 1980 in 45FR83811
DESCRIPTION OF WORK: Street, highway, utility and light engineering construction shall include the construction, alteration, repair and demolition of roads, streets, highways, alleys, sidewalks, curbs, gutters, guard rails, fences, parkways, parking areas, airports (other than buildings thereon), bridle paths, athletic fields, highway bridges, median channels and grade separations involving highways; parks; golf courses, viaducts; uncovered reservoirs and uncovered sewage and water treatment facilities; canals, ditches and channels (including linings other than than concrete linings); earth dams under one million (1,000,000) cubic yards; well drilling telephone and electrical transmission lines and site preparations which are part of street, highway, utility and light engineering projects; and shall include construction, alteration, repair, and demolition of utilities such as sanitary sewers, storm sewers, water lines, gas lines, including appurtenances thereto such as lift stations, inlets, manholes, sewer lagoons, spetic tanks and service outlets (stub-outs), providing such utility construction is outside the property line or more than five (5) feet from a building or heavy engineering structure, including the Navajo Indian Reservation.

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$6.92	.44
CEMENT MASONS	6.66	.26
IRONWORKERS:		
Reinforcing	7.49	.50
Structural	7.99	1.29
LABORERS:		
GROUP I	4.20	.35
GROUP II	4.50	.35
GROUP III	4.50	.35
GROUP IV	4.90	.35
COMMERCIAL LINE WORK-AREA A		
LINEMEN-TECHNICIANS		
Zone I	15.35	P
Zone II	16.73	P
Zone III	17.65	P
Zone IV	19.34	P
CABLE SPLICERS		
Zone I	16.89	P
Zone II	18.27	P
Zone III	19.19	P
Zone IV	20.68	P
EQUIPMENT OPR. (includes helicopter op.)		
Zone I	14.58	P
Zone II	15.96	P
Zone III	16.88	P
Zone IV	18.57	P
COMMERCIAL LINE WORK AREA (cont'd)		
EQUIPMENT MECHANIC (include helicopter mech.)		
Zone I	13.35	P
Zone II	14.73	P
Zone III	15.65	P
Zone IV	17.34	P
POWDERMAN		
Zone I	13.35	P
Zone II	14.73	P
Zone III	15.65	P
Zone IV	17.34	P
GROUNDMAN & JACKHAMMER OPRS.		
Zone I	10.90	P
Zone II	12.28	P
Zone III	13.20	P
Zone IV	14.89	P
P--3-1/2% + $2.00		
COMMERCIAL LINE WORK-AREA B		
LINEMEN-TECHNICIANS		
Zone I	10.15	3½%+.60
Zone II	11.60	3½%+.60
CABLE SPLICERS		
Zone I	10.40	3½%+.60
Zone II	11.85	3½%+.60

	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK		
AREA B (cont'd)		
EQUIPMENT OP. (includes helicopter oprs.		
Zone I	$ 9.64	3½%+.60
Zone II	11.02	3½%+.60
EQUIPMENT MECHANIC (includes helicopter mechanic and POWDERMAN		
Zone I	8.93	3½%+.60
Zone II	10.21	3½%+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	7.21	3½%+.60
Zone II	8.24	3½%+.60
AREA C		
LINEMEN-TECHNICIANS		
Zone I	14.70	3½%+.60
Zone II	15.15	3½%+.60
Zone III	15.30	3½%+.60
Zone IV	15.55	3½%+.60
CABLE SPLICERS		
Zone I	15.05	3½%+.60
Zone II	15.50	3½%+.60
Zone III	15.65	3½%+.60
Zone IV	15.90	3½%+.60
EQUIPMENT OPRS. (includes helicopter operator)		
Zone I	13.28	3½%+.60
Zone II	13.68	3½%+.60
Zone III	13.83	3½%+.60
Zone IV	14.08	3½%+.60
EQUIPMENT MECHANIC (includes helicopter mechanic)		
Zone I	13.68	3½%+.60
Zone II	13.68	3½%+.60
Zone III	13.83	3½%+.60
Zone IV	14.08	3½%+.60
POWDERMAN		
Zone I	13.23	3½%+.60
Zone II	13.23	3½%+.60
Zone III	13.38	3½%+.60
Zone IV	13.62	3½%+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	10.44	3½%+.60
Zone II	10.89	3½%+.60
Zone III	11.04	3½%+.60
Zone IV	11.29	3½%+.60
LINE CONSTRUCTION-UTILITY FOR ELECTRIC AND TELEPHONE UTILITIES REA CO-OPS, RAILROADS & MUNICIPALITIES:		
Linemen-technician	13.90	3½%+1.30
Cable splicers	14.87	3½%+1.30
Equipment op. (includes helicopter operator)	12.10	3½%+1.30

LINE CONSTRUCTION UTILITY	Basic Hourly Rates	Fringe Benefits
LINE WORK FOR ELECTRIC AND TELEPHONE UTILITIES REA CO-OPS, RAILROADS AND MUNICIPALITIES (cont'd)		
Equipment mechanic (includes helicopter mechanic)	$12.10	3½%+1.30
Powderman	11.68	3½%+1.30
Groundman & Jackhammer operator	9.50	3½%+1.30
PAINTERS:		
Brush	4.57	.44
Spray	6.31	.20
POWER EQUIPMENT OPERATORS:		
Group I	6.17	.26
Group II	6.37	.26
Group III	6.95	.26
Group IV	6.97	.26
Group V	6.97	.26
Group VI	7.12	.26
Group VII	7.17	.26
Group VIII	7.32	.26
Group IX	7.82	.26
Group X	8.62	.26
TRUCK DRIVERS:		
Distributor (asphalt)	5.09	.26
Dump or batch trucks:		
Under 8 cy	4.69	.26
8 cy and under 16 cy	4.89	.26
Diesel-powered transport	5.29	.26
Flat bed, 1½ ton	4.69	.26
Flat bed, over 1½ ton	4.89	.26
Lowboy, heavy equipment	5.29	.26
Lowboy, light equipment	5.09	.26
Off-highway hauler	5.09	.26
Pick-up truck 3/4 ton or under	4.69	.26
Trailer or semi-trailer dump and transit-mix and warehousemen	4.69	.26

CLASSIFICATION AREA AND ZONE DEFINITIONS

LABORERS:

GROUP I

Common laborer; carpenter tender; concrete buggy operator (hand); concrete workers

GROUP II

Wagon, air track, drill and diamond drillers' tender (outside)

GROUP III

Air and power tool man; asphalt raker; batching plant scaleman; tenders (to cement masons and plasters); chain sawman; concrete touch-up-man; concrete saw man; curbing machine; asphalt or cement; cutting torchman; metal from setter-road; grade setter; hod carrier; mortar mixer and mason tender; powderman; scaler; vibrator compactor (hand type); vibrator-man (hand-type); concrete power buggyman, wagon; air track drill and diamond drillers (outside)

GROUP IV

Gunite pumpcreteman and nozzleman; multiplate setter; pipelayer; manhole builder; Powderman-blaster-make up

COMMERCIAL LINE WORK

AREA A - Bernalillo, Catron, Chaves, Cibola, Colfax, Curry. DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia, White Sands Missile Range, and that portion of Fort Bliss in New Mexico.

ZONE I

Cities and Towns Basing Points and Miles from Main Post Office

*Albuquerque - 25 miles	Roswell - 12 miles
Santa Fe - 10 miles	Ruidoso - 12 miles
Las Vegas - 8 miles	Portales - 12 miles
Farmington - 6 miles	Carrizozo - 12 miles
Raton - 6 miles	Clovis - 12 miles
Tucumcari - 6 miles	Gallup - 10 miles
Aztec - 6 miles	**Pojoaque - 2 miles

*The eastern edge of the Albuquerque Zone extends no further than the western boundary of the Village of Tijeras.

**All areas adjacent to Projoaque that are over two (2) miles distance from the main post office in that town will be zoned out of Santa Fe.

ZONE II - Extending up to 20 miles beyond Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 9 percent of the journeyman rate of Zone 1.

ZONE III - Extending up to 30 miles beyond Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 15 percent of the journeyman rate for Zone 1.

ZONE IV - Anything beyond 30 miles from Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 26 percent of the journeyman rate for Zone 1.

FOR ESTABLISHING the outlying free zones from the Albuquerque free zone ONLY, Zone 2 shall extend up to 10 miles beyond zone 1, Zone 3 shall extend up to 20 miles beyond Zone 1, and Zone 4 any thing beyond 20 miles from Zone 1

FOR WORK IN LOS ALAMOS COUNTY, USE THE ZONE THREE (3) RATE.

CLASSIFICATION AREA AND ZONE DEFINITIONS (cont'd)

COMMERCIAL LINE WORK(cont'd)
AREA B - Applies to switching stations and sub-stations adjacent to power plants in Zone 1 and Zone 2 in Luna, Dona Ana, Otero, and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico
ZONE I
That area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area withi a five mile radius of any city, town or municipality within which an employer establishes or maintains his place of business; the area within ten mile radius from the Post Office in Alamogordo, New Mexico.
ZONE II
All other areas of the jurisdiction except those specified in 1

AREA C - Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from the main Post Office of Artesia, Carlsbad, Hobbs and Lovington.

ZONE I - 0 to 12 miles ZONE II - 12 to 22 miles
ZONE III - 22 to 40 miles ZONE IV - 40 miles and beyond

POWER EQUIPMENT OPERATORS
GROUP I - Concrete paving curing machine
GROUP II - Belt type conveyors (material and concrete); broom (self-propelled); fork lift; grease truck operator; head oiler; hydro lift; tractor (under 50 drawbar HP with or without attachment); Industrial locomotive brake-man; front end laoder (2 CY or less); fireman; oiler screedman; roller (pull type); mulching machine; roller (self-propelled)
GROUP III - Concrete paving form grader; concrete paving gang vibrator; concrete paving joint or saw machine; concrete paving sub-grader; tractor with backhoe attachment; subgrade or base finisher; power plant (electric general or welding machine)
GROUP IV Bulldozer (including self-propelled roller with dozer attachment); batch ot continous mix plant (concrete soil-cement or asphalt); roller (steel wheel); front end loader (2 CY thru 10 CY); scraper operator; motor grader
GROUP V - Asphalt distributor; asphalt paving or laydown machine; asphalt retort heater; mixer, heavy duty, asphalt or soil cement; trenching; clam type shaftmucker; backhoe, clamshell, dragline, gradall, shovel (under 3/4 cy); elevating grader or belt loader; cranes (crawler or mobile) under 20 ton; air compressor (300 CFM & over); crushing screening and washing plants; drilling machine (cable core or rotary); mixer, concrete (1 cy and less); pump (6" intake or over); winch truck; hoist (50 drawbar HP or over)
GROUP VI - Concrete paver mixer; hoist (2 drum and over); side boom; traveling crane; piledriver; backhoe, clamshell, dragline, gradall, shovel (3/4 cy to 3 cy); cranes (crawler or mobile) 20 ton to 40 ton; frontend loader (over 10 cy); mixer, concrete (over 1 cy); mechanic and/or welder)
GROUP VII - Concrete slip-form paving machine; concrete paving finishing machine; concrete paving logitudinal float; gunite machine; refrigerator; jumbo former drilling stage; slusher; concrete paving spreader; pumpcrete machine; grout pump operator

CLASSIFICATION AREA AND ZONE DEFINITIONS (cont'd)

POWER EQUIPMENT OPERATORS (cont'd)
GROUP VIII - Mine hoist; bulldozer (multiple units); scraper (multiple units); mucking machine; backhoe, clamshell, dragline, gradall, shovel (over 3 cy); cranes (crawler or mobile) over 40 tons
GROUP IX - Belt loader (CMI types) overator; derrick cableway
GROUP X - Pipemobile operator; mole operator

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 con-ract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: WISCONSIN
COUNTY: STATEWIDE
DECISION NUMBER WI82-2043
DATE: Date of Publication
Supersedeas Decision Number WI80-2043 dated June 27, 1980 in FR 43649
DESCRIPTION OF WORK: Highway and Airport Runway and Taxiway Construction (does not include bridges over navigable waters; tunnels; buildings in highway rest areas; and rail road construction)

DECISION NO. WI82-2043

BRICKLAYERS AND STONEMASONS:	Basic Hourly Rates	Fringe Benefits
Zone 1 - Barron, Buffalo, Burnett, Chippewa, Dunn, Eau Clair, Pepin, Pierce, Polk, Rusk, St. Croix and Sawyer Cos.	$14.35	1.50
Zone 2 - Brown, Calumet, Door, Florence, Fond Du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Oconto, Outagamie, Shawano, Waupaca, Washara, and Winnebago Cos.	12.10	1.80
Zone 3 - Green, Lafayette and Rock Cos.	13.28	2.10
Zone 4 - Crawford, Jackson, Juneau, La Crosse, Vernon, Trempealeau and Monroe Cos.	13.85	1.60
Zone 5 - Walworth County	13.77	2.90
Zone 6 - Dane, Grant, Iowa and Richland Cos.	14.59	1.90
Zone 7 - Milwaukee, Ozaukee, Washington and Waukesha Cos.	14.47	3.70
Zone 8 - Columbia and Sauk Cos.	12.99	1.90
Zone 9 - Kenosha and Racine Cos.	13.77	2.90
Zone 10 - Sheboygan Co.	12.10	1.80
Zone 11 - Ashland, Bayfield, Douglas and Iron Cos.	15.53	1.56
Zone 12 - Dodge and Jefferson Cos.	13.45	4.30
Zone 13 - Adams, Clark, Forest, Langlade, Lincoln Marathon, Menominee, Oneida, Portage, Price, Taylor, Vilas and Wood Cos.	12.07	1.84

CARPENTERS AND PILDRIVERMEN:	Basic Hourly Rates	Fringe Benefits
Zone 1 - Ashland, Bayfield, & Iron Cos.:		
Carpenters	12.20	2.10
Piledrivermen	12.40	2.10
Zone 2 - Barron, Burnette, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Pepin, Pierce, Polk, Rusk, St. Croix, Sawyer and Taylor Cos.:		
Carpenters	12.27	1.65
Piledrivermen	12.67	1.65
Zone 3 - Brown, Calumet, Door, Fond Du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Menominee, Oconto, Outagamie, Shawano, Waupaca & Wau-Shara & Winnebago Cos.		
Carpenters	12.27	1.65
Piledrivermen	12.67	1.65
Zone 4 - Green, Jefferson & Rock Cos.:		
Carpenters	15.84	1.96
Piledrivermen	15.99	1.96
Zone 5 - Keonsha County:		
Carpenters	14.26	1.61
Piledrivermen	14.35	1.61
Zone 6 - Jackson, La Crosse, Monroe, Trempealeau & Vernon Cos.:		
Carpenters	12.27	1.65
Piledrivermen	12.67	1.65
Zone 7 - Adams, Columbia, Crawford, Dane, Dodge, Grant, Iowa, Juneau, Lafayette, Richland, & Sauk Counties:		
Carpenters	12.27	1.65
Piledrivermen	12.67	1.65
Zone 8 - Florence Co.:		
Carpenters and Piledrivermen	13.39	1.90

CARPENTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
Zone 9 - Milwaukee, Ozaukee, Washington & Waukesha Cos.:		
Carpenters	14.12	3.58
Piledrivermen	15.05	3.58
Zone 10 - Racine County:		
Carpenters	14.36	1.51
Piledrivermen	14.45	1.51
Zone 11 - Sheboygan Co..:		
Carpenters	12.27	1.65
Piledrivermen	12.67	1.65
Zone 12 - Douglas County:		
Carpenters	14.00	2.80
Piledrivermen	14.25	2.80
Zone 13 - Walworth County:		
Carpenters	14.00	2.80
Piledrivermen	14.25	2.80
Zone 14 - Forest, Langlade, Lincoln, Marathon, Oneida, Portage, Price, Vilas & Wood Cos.:		
Carpenters	12.27	1.65
Piledrivermen	12.67	1.65
CEMENT MASONS:		
Zone 1 - Bayfield, Douglas, Price, Sawyer & Washburn Cos.	15.93	.70
Zone 2 - Barron, Burnett, Chippewa, Dunn, Polk, Rusk, & St. Croix Cos.	14.35	1.50
Zone 3 - Adams, Clark, Forest, Langlade, Lincoln, Marathon, Monominee, Oneida, Portage, Taylor, Vilas, & Wood Cos.	11.57	1.84
Zone 4 - Eau Claire, Pepin & Pierce Cos.	12.81	1.54
Zone 5 - Brown, Calumet, Door, Florence, Green, Lake, Kewaunee, Manitowoc, Marinette, Marquette, Oconto, Outagamie, Shawano, & Waupaca Cos.	11.60	1.75
Zone 6 - Crawford, Jackson, Juneau, La Crosse, Monroe, Richland, Trempealeau and Vernon Cos.	13.18	1.50
Zone 7 - Waushara, Winnebago, Sheboygan and Du Lac cos.	11.60	1.75
Zone 8 Dodge & Jefferson Cos.	12.95	1.95
Zone 9 - Columbia & Sauk Cos.	13.20	1.50
Zone 10 - Milwaukee, Ozaukee, Washington, & Wasukesha Cos.	12.38	3.36
Zone 11 - Dane, Green, Iowa, Lafayette & Rock Cos.	14.00	2.10
Zone 12 - Grant Co.	13.93	
Zone 13 - Walworth Co.	12.18	2.90
Zone 14 - Racine & Kenosha Cos.	12.70	2.65
Zone 15 - Ashland and Iron Cos.	14.71	1.55
ELECTRICIANS:		
Zone 1 - Calumet, Green Lake, Marquette, Outagamie, Waupaca, Waushara & Winnebago Cos.	14.88	.85+6%
Zone 2 - Barron, Buffalo, Burnett, Chippewa, Clark, Dunn, Eau Claire, Pepin, Pierce, Polk Price, Rusk, St. Croix, Sawyer, Taylor and Washburn Cos.	15.66	8⅛%
Zone 3 - Brown, Door, Kewaunee, & Shawano Cos.	14.50	1.40 3⅛%
Zone 4 - Florence & Forest Cos.	13.94	.75+ 11⅛%
Zone 5 - Kenosha Co.	15.20	.96+ 3 3/4%
Zone 6 - Crawford, Grant, Jackson, Juneau, La-Crosse, Monroe, Richland, Trempealeau & Vernon Cos.	15.14	.70+ 3%
Zone 7 - Walworth co.	14.95	.58+ 13⅛%

DECISION NO. WI82-2043

ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits
Zone 8 - Columbia, Dane, Dodge, Iowa, & Sauk Cos.	14.37	.84+11 3/4%
Zone 9 - Sheboygan Co.	13.81	1.88 +13¾%
Zone 10 - Ashland, Bayfield, Douglas, Iron, Cos.	14.62	28%
Zone 11 - Adams, Langlade, Lincoln, Marathon. Marinette, Menominee, Oconto, Oneida, Portage, Vilas, & Wood Cos.	13.94	.75+ 11¾%
Zone 12 - Fond Du Lac Co.	13.81	1.88+ 13¾%
Zone 13 - Green, Jefferson, Lafayette & Rock Cos.	14.95	1.88 +13¾%
Zone 14 - Milwaukee, Ozaukee, Washington & Waukesha Cos.	15.49	1.88+ 13¾%
Zone 15 - Racine County	16.45	.70+ 3½%
IRONWORKERS:		
Zone 1- Buffalo, Chippewa, Clark, Dunn, Eau Claire, Pepin, Pierce, Polk, St. Croix & Trempealeau Cos.	16.75	1.89
Zone 2 - Ashland, Barron, Bayfield, Burnett, Douglas, Forest, Iron, Lincoln, Oneida, Price, Rusk, Sawyer, Taylor, Vilas, & Washburn Cos.	15.82	2.60
Zone 3 - Adams, Columbia, Crawford, Dane, Dodge, Florence, Fond Du Lac, Grant, Green Lake, Iowa, Jackson, Jefferson, Juneau, LaCrosse, Lafayette, Langlade, Marquette, Marathon, Menominee, Monroe, Oconto, Outagamie, Richland, Rock, Sauk, Shawano, Waupaca, Winnebago, Vernon, Walworth, Waushara, & Wood Cos.	13.11	2.32
Zone 4 - Brown, Calumet, Door, Kenosha, Kewanee, Milwaukee, Ozaukee, Racine, Sheboygan, Washington & Wakesha Cos.	15.56	4.21
Zone 5 - Grant County	12.83	1.90
LINE CONSTRUCTION:		
Linemen	14.40	.45+9%
Heavy Equipment Ops.	12.96	.45+9%
Light Equipment Ops.	11.52	.45+9%
Truck Drivers & Heavy Groundman	10.08	.45+9%
Truck Drivers & Light Groundman	9.36	.45+9%
Groundman	7.92	.45+9%
PAINTERS:		
Zone 1 - Forest, Iron, Langlade, Lincoln, Marathon, Menominee, Oneida, and Vilas Cos.:		
Brush	12.50	.50
Spray	14.00	.50
Zone 2 - Barron, Buffalo, Chippewa, Dunn, Eau Claire, Pepin, Pierce, Polk, Rusk, Price, St. Croix, Sawyer, Trempealeau, & Washburn Cos.:		
Brush, Steel	14.50	.15+5%
Spray	14.50	.15+5%
Zone 3 - Brown, Door, Kewaunee, & Oconto Cos.:		
Brush	14.43	1.00
Zone 4- Florence Co.:		
Brush	12.50	.50
Spray	14.00	.50
Zone 5 - Kenosha & Walworth Cos.:		
Brush	12.275	1.75
Spray	12.875	1.75
Zone 6 - Adams, Clark, Crawford, Jackson, Juneau, La crosse, Monroe, Portage, Vernon, Taylor Wood Cos.:		
Brush	12.80	1.00
Spray	13.22	1.00
Zone 7 - Columbia, Dane, Dodge, Grant, Green, Iowa, Lafayette, Richland, Rock & Sauk Cos.:		
Brush	13.00	1.65
Spray	14.00	1.65
Zone 8 - Calumet & Manitowoc Cos.:		
Brush	11.80	
Spray	12.30	

DECISION NO. WI82-2043

PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
Zone 9 - Marinette Co.:		
Brush	11.85	
Spray	12.25	
Zone - Jefferson, Milwaukee, Ozaukee, Washington & Waukesha Cos.:		
Brush	13.20	3.11
Spray	13.35	3.11
Zone 11 - Fond Du Lac, Green Lake, Marquette, Outagamie, Shawano, Waushara, Waupaca, & Winnebago, Counties		
Brush & Steel	13.50	1.40
Spray	14.00	1.40
Zone 12 - Racine county:		
Brush	12.85	1.90
Spray	13.45	1.90
Zone 13 - Sheboygan Co.:		
Brush	10.40	1.10
Spray	10.90	1.10
Zone 14 - Ashland, Bayfield, Burnett & Douglas Counties:		
Brush and Spray	14.21	1.53
LABORERS:		
ZONE 1 - Milwaukee & Waukesha Counties:		
Group 1	10.63	3.49
Group 2	10.73	3.49
Group 3	10.78	3.49
Group 4	10.83	3.49
Group 5	10.98	3.49
Group 6	11.03	3.49
Group 7	11.28	3.49
Zone 2 - Racine County		
Group 1	10.75	2.43
Group 2	10.85	2.43
Group 3	10.90	2.43
Group 4	10.95	2.43
Group 5	11.10	2.43
Group 6	11.15	2.43
Group 7	11.40	2.43
Zone 3 - Kenosha County:		
Group 1	10.15	3.03
Group 2	10.25	3.03
Group 3	10.30	3.03
Group 4	10.35	3.03
Group 5	10.50	3.03
Group 6	10.55	3.03
Group 7	10.90	3.03
Zone 4 - Dane county:		
Group 1	10.80	1.53
Group 2	10.95	1.53
Group 3	10.90	1.53
Group 4	11.05	1.53
Group 5	11.00	1.53
Zone 5 - Remainder of State:		
Group 1	10.52	1.53
Group 2	10.67	1.53
Group 3	10.62	1.53
Group 4	10.77	1.53
Group 5	10.72	1.53
Zone 6 - Washington and Ozaukee Counties:		
Group 1	9.88	3.49
Group 2	10.13	3.49
Group 3	10.03	3.49
Group 4	9.98	3.49
Group 5	10.03	3.49
Group 6	10.13	3.49
Group 7	10.08	3.49
POWER EQUIPMENT OPERATORS		
Group 1	14.02	2.60
Group 2	13.76	2.60
Group 3	13.67	2.60
Group 4	13.59	2.60
Group 5	13.51	2.60
Group 6	13.47	2.60
Group 7	13.38	2.60
Group 8	13.26	2.60
TRUCK DRIVERS:		
Zone 1 - Milwaukee, Ozaukee, & Washington & Waukesha Cos.		
Group 1	11.25	.35+a
Group 2	11.40	.35+a

DECISION NO. WI82-2043

CLASSIFICATION DEFINITIONS - LABORERS

Zones 1, 2, 3, and 6

Group 1 - Bituminous Workers (Shoveler, loader, utility man), Demolition and Wrecking Laborer, Guard Rail Builder, Reinforcing Steel Setter (pavement), Stone Handler, Tree Trimmer, Landscaper, Multiple Culvert Assembler, Conduit Layer, Unskilled Laborer
Group 2 - Bituminous Workers (Dumper, Ironer, smoother, Tamper), Batch Truck Dumper, Cement Handler, Concrete Handler
Group 3 - Chain Saw Operator, Demolition Burning Torch Laborer, Joint Sawyer and Filler (pavement), Vibrator or Tamper Operator (Mechanical, Hand Operated)
Group 4 - Air Tool Operator (Hand Operated)
Group 5 - Form Setter (curb, walk & pavement), Strike Offman
Group 6 - Bituminous Worker (Raker and Luteman)
Group 7 - Powderman, Blaster

Zone 4 and 5

Group 1 - Bituminous Workers Dumper, Ironer, Smoother, Tamper, Shoveler, loader, utility man), Strike off man, Joint Sawer or Filler (pavement), Concrete Handler, Demolition & Wrecking Laborer, Guard Rail Builder, Reinforcing Steel Setter (pavement); Stone Handler, Landscaper, Multiple Culvert Assembler, Conduit Layer, Unskilled Laborer
Group 2 - Form Setter (curb, walk, & pavement), Tree Trimmer
Group 3 - Air Tool Operator, Vibrator or Tamper Operator, Batch Truck Dump, Cement Handler
Group 4 - Bituminous Worker (raker, Luteman), Chain Saw Operator Demolition Burning Torch Laborer
Group 5 - Powderman, Blaster

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:

Group 1 - Bituminous paver or plant, Concrete Breaker (truck mounted heavy), Crane, Derrick, Dragline, Dredge, Piledriver, Power Shovel Material Hoist, Mixer or paver 21 cu. ft. or over, Roller over 5 tons, Self-propelled Stabilizing Mixer, Trenching Machine, Tractor (side boom, heavy), Concrete Pavement Spreader (heavy duty) Rubber Tires, Hydraulic Back Hoe, Asphalt Plane Engineer; Automatic Slip form concrete paver, Automatic Concrete Subgrader, Batch Mixer, Portable, Caisson Rigs, Central Mixer Concrete, Dredge Engineer, Concrete Batch Plant Engineer, Central Mix Plant Concrete Percussion or Rotary Drill Machine, Grader or Motor Patrol, Loading Machine (Conveyor), Mechanic or Welder (heavy duty equipment), Tractor (scraper, dozer, push, loader), Tugger, End Loader, Asphalt Heater and Planer, Boatman, Bump Cutter and Grooving Machine, Shoulder widener, Winches and "A" frames, Tube Finisher, Screed (Bituminous Paver)

[FR Doc. 82-23268 Filed 8-26-82; 8:45 am]

BILLING CODE 4510-27-C

DECISION NO. WI82-2043

CLASSIFICATIONS DEFINITIONS - POWER EQUIPMENT OPERATOR (CONT'D)

Group 2 - Concrete Mixer less than 21 cu. ft., Concrete Pump, Steel Roller, 5 Tons or less
Group 3 - Shouldering Machine, Self-Propelled Chip Spreader
Group 4 - Concrete Breaker and Tamper (light), Concrete Spreader, Finishing Machine, Mechanical Float, Curing Machine, Power Sub-Grader, Joint Sawer (multiple blade), Launch, Roller (pneumatic tired) Self-Propelled Tractor (mounted or towed compactor and light equipment), Light Rubber Tired Tractor - End Loader, Fork-lift, Belting Machine, Burlap Machine, Jeep Digger, Mulcher, Texturing Machine
Group 5 - Fireman, Environmental Burner
Group 6 - Air Compressor, Drilling or Boring Machine (mechanical heavy), Greaser (heavy equipment) Lead-man, Tank Car Heaters, Stump Chipper, Curb Machine, Concrete Proportioning Plant, Generators, Mud Jacks
Group 7 - Crusher of Screening Plant, Automatic Belt Conveyor and Surge, Bin, Pneumatic Tired Roller Famr Tractor Towed, Pug Mill
GROUP 8 - Oiler, Pump over 3" Surge Bin, Drilling Machine Helper

TRUCK DRIVERS

Group 1 - Truck Drivers, 2 Axle - Mechanics Helper, Truck
Group 2- 3 or more Axles

FOOTNOTES:

a. Per week per employee or payroll 30 days or longer, $100.50 Per Week - Health, Welfare and Pension

federal register

Friday
August 27, 1982

Part III

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research; Actions Under Guidelines

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Research; Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth actions taken by the Director, National Institute of Allergy and Infectious Diseases, by authority of the Director, NIH, under the April 1982 Guidelines for Research Involving Recombinant DNA Molecules (47 FR 17180).

EFFECTIVE DATE: August 27, 1982.

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from Dr. William J. Gartland, Office of Recombinant DNA Activities (ORDA), National Institutes of Health, Bethesda, Maryland 20205 (301) 496-6051.

SUPPLEMENTARY INFORMATION: I am promulgating today a major action under the NIH Guidelines for Research Involving Recombinant DNA Molecules. This action involves a major revision of the Guidelines. In accordance with Section IV-E-1-b of the Guidelines, I find that this action complies with the Guidelines and presents no significant risk to health or the environment.

The structure of this announcement is as follows:

I. Background.
II. Draft Minutes of June 28, 1982, Meeting of the Recombinant DNA Advisory Committee (RAC).
III. Response of Director, NIAID, to the RAC Recommendations.
IV. Additional Changes.

Immediately following this announcement, there appears in separate section of the **Federal Register** the revised NIH Guidelines for Research Involving Recombinant DNA Molecules.

I. Background

The Recombinant DNA Advisory Committee (RAC) at its February 8-9, 1982 meeting, recommended that the National Institutes of Health (NIH) accept a proposed modification (46 FR 59734) of the NIH Guidelines for Research Involving Recombinant DNA Molecules. In supporting this modification, the RAC recommended that a working group be formed to simplify further and modify the document. On April 21, 1982, the NIH promulgated the revised Guidelines (47 FR 17180).

An *ad hoc* Working Group on Revision of the Guidelines was formed and convened for a meeting on April 19, 1982. The committee addressed several issues at this meeting. This first topic was an attempt to improve the "presentation" of the Guidelines. It was felt that most of Section II, which describes physical and biological containment standards, as well as shipping, should be moved to three separate new Appendices (G, H, and I). In addition, the section describing shipment (currently II-C) should be expanded to include further information on packaging and labeling. It was noted that the current Guidelines provide little concrete guidance for shipping materials; rather, they refer the reader to other sources.

Language describing "General Applicability" and "General Definitions" should be removed from Section IV and placed in Section I.

The working group discussed the question of whether the language of Section III-A-1 and Appendix F which refers to "toxins" also applies to other pharmacologically active molecules. A correspondent had questioned whether "pharmacologically active molecules" such as certain hormones should be treated as toxins. Pointing to Section I-B, second paragraph, which cites: "a toxin or a pharmacologically active agent," the working group agreed that the intent of the Guidelines is to cover these types of molecules and recommended that the language dealing with toxins in the Guidelines be amended to reflect that intent.

The working group discussed the issue of which document should be utilized to determine the pathogenic classification of an organism. The original 1976 Guidelines used the publication *Classification of Etiologic Agents on the Basis of Hazard,* 4th edition, July 1974; U.S. Department of Health, Education and Welfare, Public Health Service, Center for Disease Control, as the reference source for classification of microorganisms for the purposes of the Guidelines. All subsequent revisions of the Guidelines have also used this document. At the present time, the Centers for Disease Control (CDC) and the NIH are engaged in an effort to revise the *Classification of Etiologic Agents on the Basis of Hazard.* The working group felt, however, that this revised version might not serve the purposes of the Guidelines as well as the original 1974 version. Nonetheless, the working group noted that additional pathogens should be added to the classification in the Guidelines and that the classification should be updated regularly. It was also noted that some organisms might better be treated in a manner specific for the purposes of the Guidelines. The working group recommended, therefore, that the RAC and NIH adopt for the Guidelines a revised version of the 1974 CDC classification, and that the RAC should assume responsibility for regularly updating the listing. The working group recommended that (a) the following bacteria be added to the list of Class 2 bacterial agents:

Aeromonas hydrophila
Campylobacter fetus
Campylobacter jejuni
Edwardsiella tarda
Yersinia enterocolitica

and the listing for *Escherichia coli* be changed to refer to "all enteropathogenic, enterotoxigenic, enteroinvasive, and strains bearing Kl antigen;" (b) Vesicular stomatitis virus be listed as a Class 2 viral agent rather than a Class 3 viral agent; (c) Rabies street virus be classified as a Class 3 viral agent for all procedures; (d) Alastrim, Smallpox, and Whitepox should be listed as Class 5 viral agents rather than as Class 3 and Class 4 agents as the study of these viruses is restricted to a single national facility national facility (WHO Collaborating Center for Smallpox Research, Centers for Disease Control) and the language dealing with Poxviruses modified accordingly; (e) Viruses classified as low risk oncogenic viruses by the *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (October 1974, U.S. Department of Health, Education, and Welfare Publication Number (NIH) 75-790) should be classified as Class 2 agents for the purposes of the Guidelines; and (f) Moderate-risk oncogenic viruses should be classified as Class 3 agents for the purposes of the Guidelines. Furthermore, footnotes, references, and the title of Appendix B should be modified to reflect the status of a revised Appendix B.

The working group dealt with the issue of the composition of the Institutional Biosafety Committees (IBCs). A discussion arose as to the necessity of stating in current Section IV-D-2-a that not less than 20 percent of the membership of the IBC shall not be affiliated with the institution. It was felt that the 20 percent specification limits the flexibility of the university in appointing members to the IBC. The example was offered of an IBC fulfilling the 20 percent specification, but wishing to add an additional specialist affiliated with the university. However, non-affiliated representation would fall

below 20 percent when this specialist is appointed and the university would have to appoint another non-affiliated member. The specification that at least two members shall not be affiliated with the institution should remain in the Guidelines to ensure community representation. It was felt that in a twenty member committee, two public members would provide adequate representation for the community. Members of the working group could not envisage IBCs larger than 20 members functioning smoothly. In addition, it was noted that ORDA reviews IBC membership for compliance and would be alert to cases in which an institution might attempt to dilute community representation by, for example, appointing a 50 member committee.

The working group also considered the language of current Section IV–D–2–b. A discussion ensued regarding representation on the IBC from the laboratory technical staff. If the term "nondoctoral" was deleted, postdoctoral associates might also be appointed to the IBC. Other members of the working group pointed out that technicians are, indeed, those most likely to be performing recombinant DNA experiments and those having the least "competitive" pressures exerted on them. Although technicians do experience certain types of pressures, many on the working group felt they would be among the best "watchpersons."

The working group also recommended a number of additional changes in the Guidelines. The recommendations of the working group, with minor modifications introduced by NIH staff were summarized in a **Federal Register** announcement on May 26, 1982 (47 FR 23110). The proposed revised Guidelines, incorporating the changes, were printed in their entirety in the same **Federal Register** announcement. Several additional proposed changes were also published for comment.

On June 28, 1982, the RAC reviewed the proposed revised Guidelines and the one letter of comment received on the proposed revisions. Part II of this announcement contains the draft minutes of the relevant portion of the June 28, 1982, RAC meeting. Part III gives the response of the Director, National Institute of Allergy and Infectious Diseases, to the RAC recommendations.

II. Draft Minutes of Relevant Portions of June 28, 1982, Meeting of the Recombinant DNA Advisory Committee

Dr. Nightingale began discussion of the modifications (tabs 1071, 1072, 1074) to the Guidelines proposed by the Working Group on Revision of the Guidelines. She recalled to the committee that the RAC at its February 8–9, 1982 meeting, recomended that the NIH accept a proposed modification of the NIH Guidelines for Research Involving Recombinant DNA Molecules. In recommending this modification to the NIH, the committee recommended that a working group be formed to further simplify and modify the document. The NIH, following this recommendation, promulgated the Revised Guidelines on April 21, 1982. An *ad hoc* Working Group on Revision of the Guidelines was formed and convened for a meeting on April 19, 1982, to further modify the document promulgated on April 21, 1982. Dr. Nightingale said the working group attempted to clarify and simplify, wherever possible, the structure and language of the Guidelines, to suggest changes appropriate in light of available data, and to recommend future activities in the area of guideline review and revision.

Dr. Nightingale then indicated four major proposed modifications offered by this working group. First, the working group had suggested the presentation of the Guidelines be rearranged primarily by placing the description of physical and biological containment into appendices. Second, the working group recommended that the RAC and NIH adopt for the Guidelines a revised version of the 1974 CDC *Classification of Etiologic Agents on the Basis of Hazard.* The working group also suggested that the RAC assume responsibility for regularly updating the listing. Dr. Nightingale explained that the original 1976 Guidelines used the *Classification of Etiologic Agents on the Basis of Hazard,* 4th Edition, July 1974, U.S. Department of Health, Education, and Welfare, Public Health Service, Center for disease Control (CDC), as the reference source for classification of microorganisms for the purposes of the Guidelines. At the present time, the CDC and the NIH are engaged in an effort to revise this classification. The working group, however, felt that this revised version might not serve the purposes of the Guidelines as well as the original 1974 version as revised. This is the only proposal of the working group that received a letter of comment, and Dr. Berns said he wished to reply to an issue raised by Dr. John Richardson of the CDC in a letter of June 10, 1982 (tab 1074), concerning the proposed revision of Appendix B for the purposes of the NIH Guidelines. Dr. Berns said the proposed revised classification would classify Rabies street virus as a Class 3 agent for all procedures. Dr. Richardson suggested that a Class 2 designation was adequate. Dr. Berns said he had discussed the issue with Dr. Richardson and they had agreed that a Class 3 specification for Rabies street virus was more appropriate for the purposes of the NIH Guidelines; investigators following the NIH Guidelines would more probably be using chemical quantities of viruses, rather than the quantities needed for diagnostic purposes on which the CDC classification was based.

Third, Dr. Nightingale said the working group had discussed at length the role and responsibilities of the IBCs. They noted that a greater burden had been placed on the IBCs by the April 21, 1982, revision of the Guidelines. The working group discussed whether RAC should collect information about IBC functions. One suggestion was that a questionnaire be sent to all IBCs.

Mr. Mitchell commented that the IBCs have been delegated a great deal of responsibility, but RAC has little data on the actual functioning and effectiveness of the IBCs. He suggested that some mechanism of specific communication between RAC and the IBCs should be developed.

Fourth, Dr. Nightingale noted that the working group suggested an ongoing process of review and revision of the Guidelines; such a process should occur with some regular periodicity, perhaps once a year.

Mr. Thornton suggested that RAC proceed through the proposed revisions of the Guidelines section by section; amendments could then be offered in an orderly fashion. He requested a formal motion to adopt the proposed revised Guidelines as they appeared in the **Federal Register** of May 26, 1982 (tab 1072). Dr. Ahmed so moved, and Dr. Berns seconded the motion. Dr. Mason offered an amendment to commend the working group for its outstanding efforts in generating the proposed document. Dr. Ahmed accepted the amendment as did Dr. Berns.

Beginning with Section I of the Guidelines, Dr. Baltimore questioned the words "potentially harmful polynucleotide" in the second paragraph of Section I–B, *Definition of Recombinant DNA Molecules.* He asked how synthetic DNA segments could yield "potentially harmful polynucleotides" other than being translated to "potentially harmful polypeptides". Dr. Wensink suggested it might be a transposable element. It was agreed to leave the language as proposed.

Dr. Baltimore said that a "pharmacologically active agent" is equated with a toxin in Section I–B. He

questioned that language. It was pointed out that the text says "e.g., a toxin or a pharmacologically active agent" and does not necessarily equate the two. Also the text is identical with that in the current April 21, 1982 version of the Guidelines. Dr. Berns said the working group determined that proposals to clone genes for certain biologically active polypeptides should be carefully evaluated, as were proposals involving toxins. The language of Section III–A–1 and Appendix F have been modified to reflect this intent. Dr. Berns said these sections specify the LD50s that define "biologically active polypeptides." It was agreed to leave the language as proposed.

Dr. Nightingale then reviewed the proposed changes in Section III. She noted that a "caution" had been added to Section III–B–3. That caution is as follows:

> CAUTION: Special care should be used in the evaluation of containment levels for experiments which are likely to either enhance the pathogenicity (e.g., insertion of a host oncogene) or to extend the host range (e.g., introduction of novel control elements) of viral vectors under conditions which permit a productive infection. In such cases, serious consideration should be given to raising physical containment by at least one level.

Dr. Nightingale said this is one instance where new information suggested that a caution be added. Dr. Ahmed asked to whom the caution was addressed. Dr. Berns replied that the caution is addressed primarily to the IBC. Dr. Ahmed asked if the phrase "consideration by the IBC" should be added. He felt the caution as proposed appeared parenthetical; the IBC should be cited more explicitly. Dr. Berns did not accept Dr. Ahmed's suggestion as he felt responsibility should be incumbent on both the investigator and the IBC. Dr. Ahmed withdrew the proposal.

Dr. Nightingale asked if Dr. Ahmed, as the maker of the motion, would agree to strike the work "viral" in Section III–B–2–a. The language reads in part:

> * * * Recombinant DNA experiments in which DNA from Class 4 agents is transferred into nonpathogenic prokaryotes or lower eukaryotes can be performed at P2 containment after demonstration that only a totally and irreversibly defective fraction of the agent's viral genome is present in a given recombinant.

Dr. Berns explained that currently all Class 4 agents classified in Appendix B are viruses. That situation might, however, change in the future, and deleting the word "viral" in Section III–B–2–a would provide greater flexibility. Dr. Ahmed agreed to delete the word "viral."

Dr. Gottesman noted that language from Sections III–B–2–a and III–B–2–b of the April 21, 1982, Guidelines had been combined by the working group into a new Section III–B–2–a. In so doing, the working group had moved experiments involving a totally and irreversibly defective fraction of Class 4 agents into Section III–B–2–a, and delegated authority to the IBC to lower containment on experiments involving these agents.

Dr. Nightingale mentioned the inadvertment omission in Section III–B–4–a of language dealing with USDA permits for working with Class 5 agents, and suggested suitable language be inserted analogous to that found at the end of Section III–B–2–b. Mr. Thornton asked if Dr. Ahmed would agree to insertion of such language in Section III–B–4–a. Dr. Ahmed agreed as did Dr. Berns.

Dr. Nightingale then referred to Section III–C, *Experiments that Require IBC Notice Simultaneously with Initiation of Experiments.* The first sentence of this section reads as follows:

> Experiments not included in Section III–A, III–B, III–D, and subsections of these sections are to be considered in Section III–C.

She said the working group was concerned with the language of this section. They noted that non-exempt experiments which might merit more stringent review by RAC or by the IBC prior to initiation of the experiment might not be adequately described in Sections III–A and III–B and, thus, would automatically fall into Section III–C. Dr. Nightingale suggested that a reference be added at the end of the first paragraph of Section III–C drawing the reader's attention to the first two paragraphs of Section IV–A, which emphasizes the responsibility of the institution and those associated with it. Dr. Nightingale said the clause emphasizing institutional responsibility in Section IV–A ought to read:

> * * * Therefore, it is the responsibility of the Institution and those associated with it to adhere to the intent of the Guidelines as well as to their specifics.

The RAC agreed that the word "intent" should be substituted for the word "purpose" which was used in the version proposed by the working group. Dr. Ahmed agreed to add a reference to Section IV–A in Section III–C and to substitute the word "intent" for the word "purpose" in the language of Section IV–A. Dr. Berns agreed.

Dr. Baltimore questioned why low-risk oncogenic viruses had been classified in proposed Appendix B as Class 2 agents. He said most are not human pathogens at all, and many are extremely innocuous. He felt that classifying low-risk oncogenic viruses as Class 1 agents and moderate-risk oncogenic viruses as Class 2 agents would be more reasonable. Dr. Berns did not agree completely; he felt some of the moderate-risk oncogenic viruses, such as Herpesvirus saimiri or EB virus, should be classified as Class 3 agents. Dr. Baltimore agreed that Herpesvirus saimiri might be classified as a Class 3 agent but felt Rous sarcoma virus be classified as Class 1. Dr. Berns ageed that the list warranted closer looking at, but he did not feel that this RAC meeting was the appropriate time for such a virus by virus review. Dr. McKinney pointed out that P2 provides the investigator with physical protection that is desirable and necessary for working with these agents.

He suggested low-risk oncogenic viruses should be used under Class 2 containment conditions. Dr. Baltimore noted that in the current Guidelines a listing is given in Appendix B of low-risk and moderate-risk oncogenic viruses, but no containment relative to the Guidelines is specified. The proposed revised Guidelines include the new statements that low-risk oncogenic viruses "should be treated as Class 2 agents" and moderate-risk oncogenic viruses "should be treated as Class 3 agents." Therefore, this involves an increased stringency of the proposed revised Guidelines for these agents.

Dr. Brill questioned the inclusion of all *Klebsiella* strains as Class 2 agents in Appendix B. He said *Klebsiella* species are ubiquitous. Dr. Berns point out that *Klebsiella* was classified as Class 2 in the original 1974 edition of the *Classification of Etiologic Agents;* the working group had not changed its classification. Dr. Holmes said he could suggest several modifications to Appendix B: he agreed with Dr. Richardson that *Schistosoma mansoni* should be Class 2; the Psittacosis-Ornithosis-Trachoma group needs to be revised; consideration should be given to grouping *Mycobacterium leprae* with *Mycobacterium tuberculosis.* Mr. Thornton suggested in view of the number of specific concerns expressed concerning Appendix B that a working group review the list and report to the RAC at its next meeting. This was agreed to.

Dr. Nightingale reviewed the proposed changes in Section IV, *Roles and Responsibilities.* These modifications include:

(1) in Section IV–B–2, language was inserted to the effect that the IBC's

"responsibilities need not be restricted to recombinant DNA."

(2) in Section IV–B–2–a, the requirement was deleted that 20 percent of the IBC membership not be affiliated with the institution (although the requirement was retained that at least 2 IBC members not be affiliated with the institution) and

(3) in Section IV–B–2–b, language recommending that "at least one member be a nondoctoral person from a laboratory technical staff" was modified to read "at least one member be from the laboratory technical staff."

Dr. Berns commented on the proposal to delete the word "nondoctoral". He said some members of the working group felt a "nondoctoral" technician with actual "hand-on" experience was most appropriate for this "slot" on the IBC. Others members felt that anyone who had "hand on" experience and who was not a principal investigator (including technician, research associate or post-doctoral fellow) was an appropriate representative of the laboratory technical staff. Following much discussion, the term "nondoctoral" had been deleted from the proposed revised Guidelines by the working group.

Dr. Ahmed questioned why the requirement was deleted that 20 percent of the IBC membership by non-affiliated with the Institution. Dr. Berns offered the example of an IBC just fulfilling the 20 percent specification, but wishing to add an additional specialist affiliated with the university.

When this specialist was appointed, non-affiliated representation would fall below 20 percent, and the university would have to appoint another non-affiliated member. Dr. Berns said the working group felt the percentage of non-affiliated members was not critical as long as two non-affiliated members were present on the IBC. Dr. Ahmed pointed out that on an IBC composed of 20 members, with 2 non-affiliated members, non-affiliated representation would be 10 percent, or half of the non-affiliated composition mandated under the current Guidelines. He said the failure to maintain this requirement troubled him. Dr. Mason point out that a five-membered IBC would have at least 40 percent of its membership non-affiliated. Dr. McKinney said he believed that the institution, which appoints members to the IBC, will respond to the intent of the Guidelines and appoint IBCs of an appropriate composition.

Moving to the next section, Dr. Nightingale called the attention of the RAC to Section IV–B–2–f. Section IV–B–2–f reads:

> Institutions are encouraged to open IBC meetings to the public whenever possible, consistent with protection of privacy and proprietary interests.

Dr. Nightingale said no modifications were suggested for this section, but noted that one member of the working group, Ms. King, felt the issue of open meetings should be evaluated at some point in the future, and that open meetings probably should eventually be required.

Dr. Nightingale finally noted the addition of proposed language to Section IV–D–4. The proposed language reads:

> Note.—Other Federal agencies which have adopted the NIH Guidelines may have the authority to terminate funding to their grantees should these grantees not comply with the NIH Guidelines.

She felt this statement is not sufficient and that the section should be expanded to include a description of the Federal Interagency Advisory Committee on Recombinant DNA Research and of its membership. Dr. Goldstein felt that some description of the Interagency Committee, particularly a statement that its members have agreed to abide by the NIH Guidelines, would be desirable. Dr. Gottesman suggested that an Appendix, describing the Interagency Committee, its agency members, and a statement that these agencies have agreed to abide by the Guidelines, be added to the Guidelines. References would be made to this new Appendix at (1) Section IV–C–1–a–(4) which describes the Director's responsibility for maintaining this committee, and (2) under Section IV–D–4 in place of the "Note." Dr. Ahmed suggested the proposed Appendix should also describe how the Interagency Committee was formed, who it reports to, and what responsibilities member agencies have assumed with respect to the NIH Guidelines. Dr. Ahmed agreed to accept this amendment, as did Dr. Berns.

Dr. Goldstein said he still had concerns on the potential use of recombinant DNA technology for biological warfare. He noted that the Department of Defense (DoD) is a member of the Interagency Committee. He said that earlier in the meeting RAC heard of classified research conducted by DoD. However, several questions on this research had not been answered to Dr. Goldstein's satisfaction by the DoD representative. Dr. McCullough said that many DoD biomedical research projects are unclassified, but there are projects in defensive biological warfare techniques and processes that are classified. These projects might include aerosol detection devices, antibody identification devices, or air sampling processes. These are not weapons. Dr. Goldstein asked if the motion made earlier in the meeting concerning the use of recombinant DNA technology for biological warfare might be reconsidered. Dr. Ahmed seconded. By a vote of five in favor, thirteen opposed, and no abstentions the RAC, however, refused to reconsider the earlier motion.

Mr. Thorton called the attention of the RAC to Part D of tab 1072 which includes certain sections of the current Guidelines which the working group suggested deleting but which NIH staff felt should be retained. He said the version which Dr. Ahmed had moved includes these sections. If any member does not approve of the retention of any section, a specific motion to delete should be made. The sections to be retained are: (1) Section I–D–5 of Section I–D, *General Definitions*, which defines "Director, NIH," (2) Section IV–B–5–b and its subsections of IV–B–5, *Principal Investigator*, which deals with submissions by the principal investigator to the NIH, (3) Section IV–C–1–b–(1)–(a) and Section IV–C–1–b–(1)–(b) of Section IV–C–1–b, *Specific Responsibilities of the Director*, and (4) Section IV–C–1–b–(2) and its subsections which detail certain lesser actions which are the responsibility of the Director. No motion to delete any of these sections was made.

Dr. Brill returned to the issue of the classification of *Klebsiella* as a Class 2 agent in Appendix B. He suggested that the language in Appendix B which reads *"Klebsiella*—all species and all serotypes" be modified to read *"Klebsiella*—all strains known to originate from human and animal sources." Dr. Gottesman asked what an investigator would assume if he did not know the source of a strain. Dr. Brill replied that an investigator would assume that particular *Klebsiella* strain was a Class 1 agent. Dr. Gottesman pointed out that no new restrictions were being imposed on investigators working with *Klebsiella* by the proposed revised Guidelines. She questioned the appropriateness of modifying this language at this RAC meeting without data sufficient to formulate a reasonable motion. She felt a working group could examine the issue in greater detail. Dr. Ahmed agreed the issue should be referred to a working group; he felt insufficient information was available at the moment. Dr. McKinney said the *Classification of Etiologic Agents* states that "human etiologic agents" have been classified. Presumably, those strains of *Klebsiella* classified in proposed Appendix B are only the human

pathogens. Dr. Tolin pointed out that *Klebsiella* appears in Sublist A of Appendix A, and therefore many experiments involving *Klebsiella* will be totally exempt from the Guidelines.

Dr. Holmes suggested that the RAC might follow either of two options: (1) Recommend Appendix B as proposed by the working group, or (2) retain Appendix B as it appears in the current Guidelines. He said he would suggest, as an amendment, that RAC retain Appendix B as it currently appears in the Guidelines. Dr. Berns disagreed; he said few substantive changes had been made in proposed Appendix B, and he would not accept Dr. Holmes' amendment. Dr. Holmes withdrew his amendment.

Mr. Thornton called the question on Dr. Ahmed's motion to recommend the proposed revised Guidelines, as amended. By a vote of eighteen in favor, none opposed, and no abstentions, the motion was accepted.

Response of Director, NIAID, to the RAC Recommendations

In this section, I will review the recommendations of the RAC on the proposed revised Guidelines. They were published for public comment in the **Federal Register** of May 26, 1982. Only one comment was received, from Dr. John Richardson, Director, Office of Biosafety, Centers for Disease Control. The comment dealt solely with Appendix B of the Guidelines and is discussed below under that heading.

The RAC at its June 28, 1982, meeting took the proposed revised Guidelines as they appeared in the **Federal Register** on May 26, 1982, as a starting point. They recommended a few additional changes which are discussed below, and then voted eighteen in favor, none opposed, and no abstentions to recommend this Guideline revision.

A. Parts I and II

The RAC recommended no changes in Parts I and II of the proposed revised Guidelines as published in the **Federal Register** of May 26, 1982 (47 FR 23110). I accept this recommendation.

B. Part III

In Section III–B–2–a, the RAC recommended deletion of the word "viral" in the second sentence which read as follows in the proposed revised Guidelines:

> Recombinant DNA experiments in which DNA from Class 4 agents is transferred into nonpathogenic prokaryotes or lower eukaryotes can be performed at P2 containment after demonstration that only a totally irreversibly defective fraction of the agent's *viral* genome is present in a given recombinant. (Underlining added.)

The reason for the RAC's recommendation for deletion of the word "viral" is that although only viral agents are currently classified as Class 4 agents, removal of the specification of "viral" would allow for the possible introduction of different types of Class 4 agents in the future. I accept this recommendation.

At the end of Section III–B–4–a, the RAC recommended that language should be added regarding the requirement for a USDA permit for work with Class 5 agents. I accept this recommendation, and the following sentence has been added at the end of Section III–B–4–a:

> A USDA permit is required for work with Class 5 agents [18,20].

At the end of the first paragraph of Section III–C, the RAC recommended that a reference should be added during the reader's attention to the policy statement in the first two paragraphs of Section IV–A. Section III–C deals with experiments not included in Sections III–A, III–B, or III–D. Concern had been raised that non-exempt experiments which might merit more stringent review by RAC or by the IBC prior to initiation of the experiment might not be adequately described in Sections III–A and III–B and, thus, would automatically fall into Section III–C. The working group members requested that the language of Section III–C be evaluated by the RAC in the hope that language might be developed to alert researchers and IBCs of this possibility. The first two paragraphs of the policy statement in Section IV–A state that the Guidelines cannot anticipate every possible situation, and that it is the responsibility of the institution to adhere to the intent of the Guidelines as well as to their specifics.

I accept the recommendation of the RAC that a reference to the first two paragraphs of Section IV–A be added to Section III–C. Accordingly, the following wording has been added at the end of the first paragraph of Section III–C:

> (The reader should refer to the policy statement in the first two paragraphs of Section IV–A.)

Other than the changes discussed above, the RAC recommended adoption of Part III of the proposed revised Guidelines as published in the **Federal Register** of May 26, 1982 (47 FR 23110). I accept this recommendation.

C. Part IV

The RAC recommended changing the word "purpose" to "intent" in the last sentence of the second paragraph of Section IV–A to reflect more clearly the meaning of this sentence.

I accept this recommendation, and the last sentence of the second paragraph of Section IV–A has been modified to read as follows:

> Therefore, *it is the responsibility of the Institution and those associated with it to adhere to the intent of the Guidelines as well as to their specifics.*

Under Section IV–B–2–a, I note that the RAC recommended accepting the proposal of the working group that the requirement for nonaffiliated membership on an Institutional Biosafety Committee (IBC) be changed to "at least two members" from the previous requirement for "at least two members (but not less than 20 percent of the membership of the committee)." I also note that in Section IV–B–2–b, dealing with recommendations for the composition of an IBC, the RAC recommended accepting the modification of item (iii) to read "at least one member be from the laboratory technical staff." The previous version read: "at least one member be a nondoctoral person from a laboratory technical staff." I accept these recommendations.

At the end of Section IV–C–1–a–(4), the RAC recommended addition of a reference to a new Appendix J (See discussion of Appendix J below). I accept this recommendation.

The RAC recommended deletion of the "Note" in Section IV–D–4 which had been proposed to read as follows:

> Other Federal agencies which have adopted the NIH Guidelines may have the authority to terminate funding to their grantees should these grantees not comply with the NIH Guidelines.

Instead, the RAC recommended the addition of a new appendix (Appendix J) to the Guidelines which would have information about the Federal Interagency Advisory Committee on Recombinant DNA Research, and the insertion of a reference to Appendix J in place of the "Note." I accept this recommendation. A new Appendix J has been added to the Guidelines, and a reference to this appendix has been added under Section IV–D–4.

The working group had recommended deletion of several sections of Part IV of the Guidelines. These deletions were not incorporated into the proposed revised Guidelines as published in the **Federal Register** of May 26, 1982. NIH staff felt that retention of these sections would permit greater flexibility in interpreting and administering the Guidelines. Those sections which the working group

suggested should be deleted but which NIH staff did not remove from the proposed revised Guidelines were cited in Section D of the **Federal Register** of May 26, 1982. At the RAC meeting, although specifically brought up, there was no motion to delete the above referenced material. Accordingly, these sections have been incorporated into the revised Guidelines.

Other than the changes discussed above, the RAC recommended adoption of Part IV of the proposed revised Guidelines as published in the **Federal Register** of May 26, 1982 (47 FR 23110). I accept this recommendation.

D. Parts V and VI

The RAC recommended no changes in Parts V and VI as proposed in the **Federal Register** of May 26, 1982 (47 FR 23110). I accept this recommendation.

E. Appendix A

The RAC recommended no changes in Appendix A as proposed in the **Federal Register** of May 26, 1982 (47 FR 23110). I accept this recommendation.

F. Appendix B

The working group had discussed which document should be utilized to determine the pathogenic classification of an organism. As noted earlier in this announcement, the original 1976 Guidelines used the publication *Classification of Etiologic Agents on the Basis of Hazard*, 4th Edition, July 1974; U.S. Department of Health, Education and Welfare, Public Health Service, Center for Disease Control, as the reference source for classification of microorganisms for the purposes of the Guidelines. All subsequent revisions of the Guidelines have also used this document. At the present time, the Centers for Disease Control (CDC) and the NIH are revising the *Classification of Etiologic Agents on the Basis of Hazard*. The working group felt, however, that this revised version might not serve the purposes of the Guidelines as well as the original 1974 version. Nonetheless, the working group noted that additional pathogens should be added to the classification in the Guidelines and that the classification should be updated regularly. It was also noted that some organisms might better be treated in a manner specific for the purposes of the Guidelines. The working group recommended, therefore that the RAC and NIH adopt for the Guidelines a revised version of the 1974 CDC classification, and that the RAC assume responsibility for regularly updating the listing.

I accept the recommendation that the RAC assume responsibility to update periodically a revised classification of microoganisms for the purposes of the NIH Guidelines for Research Involving Recombinant DNA Molecules. I have asked ORDA to designate a working group on classification of microorganisms to make its first report to the full committee at its next meeting.

The proposed revised classification developed by the working group on revisions was published in Appendix B of the proposed revised Guidelines in the **Federal Register** of May 26, 1982 (47 FR 23110).

The proposed revised classification was the only proposal of the working group which received a letter of comment. Dr. John Richardson, Director, Office of Biosafety, Centers for Disease Control (CDC) offered the following comments which were distributed to the RAC:

A. mallei is now *Pseudomonas mallei*
Diplococcus pneumoniae is now *Streptococcus pneumoniae*
Herellea vaginicola is now *Acinetobacter calcoaceticus*
Legionella pneumophila should be added to the list of Class 2 bacteria
Mima polymorpha—delete—same as *A. calcoaceticus*
Vibrio comma is now *Vibrio cholerae*
Vibrio fetus and *V. jejuni* are now *Campylobacter fetus* and *C. jejuni*, respectively.
Rabies virus—street virus should also be Class 2 (The only two recorded cases of laboratory-associated disease were due to a fixed and an attenuated strain, respectively)
Actinobacillus mallei is now *Pseudomonas mallei*
Schistosoma mansoni should be a Class 2 agent
Psittacoses-ornithoses-trachoma group should be redesignated *Chlamydia psittaci* and *C. trachomatis* and listed under Class 2 bacteria
Ebola fever virus should be added to the list of Class 4 viruses."

One member of the RAC, Dr. Berns, recommended that Rabies street virus be considered a Class 3 agent for the purposes of the Guidelines because although Rabies street virus could be classified as a Class 2 agent for work at diagnostic levels, larger than diagnostic levels will likely be used in experiments involving recombinant DNA techniques.

I accept Dr. Richardson's recommendations for amendment of the proposed classification of microorganisms in Appendix B, except that Rabies street virus will be classified as a Class 3 agent pending possible further consideration by the working group on classification of microorganisms.

Other specific changes in Appendix B were discussed at the RAC meeting in regard to *Klebsiella* and other organisms. The RAC recommended not adopting these further changes at this time, but rather awaiting the report of the working group on classification of microorganisms at a future RAC meeting.

In Appendix B of the proposed revised Guidelines, the working group had recommended that viruses classified as low risk oncogenic viruses by the *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (October 1974, U.S. Department of Health, Education, and Welfare Publication Number (NIH) 75–790) should be classified as Class 2 agents for the purposes of the Guidelines, and moderate-risk oncogenic viruses should be classified as Class 3 agents for the purposes of the Guidelines. One member of the RAC objected to the proposed classification of these viruses as being too stringent. He suggested that the low-risk oncogenic viruses should be put in Class 1, and the moderate-risk oncogenic viruses in Class 2. Because of differences of opinion about the appropriate classification for these viruses, because the proposed new designation of these agents as Class 2 and 3 would raise required containment vis-a-vis the current April 21, 1982, Guidelines (47 FR 17180), and because the working group on classification of microorganisms will be considering this issue and reporting back to the RAC at its next meeting, I am retaining for the present the status of these organisms as they appear in the April 21, 1982 Guidelines.

Other than the changes discussed above, the RAC recommended adoption of Appendix B of the proposed revised Guidelines as published in the **Federal Register** of May 26, 1982 (47 FR 23110). I accept this recommendation.

G. Appendices C through I

The RAC recommended no changes in Appendices C, D, E, F, G, H, and I as proposed in the **Federal Register** of May 26, 1982 (47 FR 23110). I accept these recommendations.

H. Appendix J

As noted in my review of Part IV of the Guidelines, I have accepted the recommendation of the RAC to add a new Appendix J to the Guidelines and to refer to this new appendix at two places in the text of Part IV. The new Appendix J provides information on the fucntions of the Federal Interagency Advisory Committee on Recombinant DNA Research, its membership, and a statement that the relevant Departments and Agencies have adopted the NIH

Guidelines for Research Involving Recombinant DNA Molecules for research which they conduct or support.

IV. Additional Changes

I am incorporating into the revised Guidelines published today the following additional changes:

A. Appendix E

1. Certification of chi–1776 (pBR325) as an EK2 host-vector system. Appendix E has been amended to indicate certification of *E. coli* K–12 strain chi–1776 with plasmid pBR325 as an EK2 host-vector system.

2. Decertification of certain *E. coli* K–12 strains. *E. coli* K–12 strains chi–1984, chi–2705, chi–2001, and chi–2263 have been decertified for use with certain lambda vectors. Reference to these strains have been deleted from Appendix E.

B. Appendix F

1. Section Appendix F–IV–E has been rewritten to update this Section. The new wording which has been incorporated reads as follows:

Appendix F–IV–E. Fragments F–1, F–2, and F–3 of the diphtheria toxin gene (tox) may be cloned in *E. coli* K–12 under P1 + EK1 containment conditions. Fragment F–1 and fragment F–2 both contain (i) some or all of the transcriptional control elements of *tox*, (ii) the signal peptide, and (iii) fragment A (the center responsible for ADP-ribosylation of elongation factor 2). Fragment F–3 codes for most of the non-toxic Fragment B of the toxin, and contains no sequences coding for any portion of the enzymatically-active fragment A moiety.

2. A new Section, Appendix F–IV–G, has been added to reflect a case-by-case decision under the Guidelines. The new section reads as follows:

Appendix F–IV–G. Genes from *Vibrio fluvialis, Vibrio mimicus* and non 0–1 *Vibrio cholerae*, specifying virulence factors for animals may be cloned under P1 + EK1 conditions. The virulence factors to be cloned will be selected by testing fluid induction in suckling mice and in Y–1 mouse adrenal cells.

Dated: August 18, 1982.

Richard M. Krause,

Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8-(b)-(4) and (5) of that Circular.

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Part IV

Department of Health and Human Services

National Institutes of Health

Guidelines for Research Involving Recombinant DNA Molecules

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Guidelines for Research Involving Recombinant DNA Molecules

Table of Contents

I. Scope of the Guidelines
- I-A—Purpose
- I-B—Definition of Recombinant DNA Molecules
- I-C—General Applicability
- I-D—General Definitions

II. Containment

III. Containment Guidelines for Covered Experiments
- III-A—Experiments that Require RAC Review and NIH and IBC Approval Before Initiation
- III-B—Experiments that Require IBC Approval Before Initiation
- III-B-1—Experiments Using Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents) as Host-Vector Systems
- III-B-2—Experiments in which DNA from Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents) is Cloned in Nonpathogenic Prokaryotic or Lower Eukaryotic Host-Vector Systems
- III-B-3—Experiments Involving the Use of Infectious Animal or Plant Viruses or Defective Animal or Plant Viruses in the Presence of Helper Virus in Tissue Culture Systems
- III-B-4—Recombinant DNA Experiments Involving Whole Animals or Plants
- III-B-5—Experiments Involving More than 10 Liters of Culture
- III-C—Experiments that Require IBC Notice Simultaneously with Initiation of Experiments
- III-D—Exempt Experiments

IV. Roles and Responsibilities
- IV-A—Policy
- IV-B—Responsibilities of the Institution
- IV-B-1—General Information
- IV-B-2—Membership and Procedures of the IBC
- IV-B-3—Functions of the IBC
- IV-B-4—Biological Safety Officer
- IV-B-5—Principal Investigator
- IV-B-5-a—PI—General
- IV-B-5-b—Submissions by the PI to NIH
- IV-B-5-c—Submissions by the PI to the IBC
- IV-B-5-d—PI Responsibilities Prior to Initiating Research
- IV-B-5-e—PI Responsibilities During the Conduct of the Research
- IV-C—Responsibilities of NIH
- IV-C-1—Director
- IV-C-1-a—General Responsibilities of the Director, NIH
- IV-C-1-b—Specific Responsibilities of the Director, NIH
- IV-C-2—Recombinant DNA Advisory Committee
- IV-C-3—The Office of Recombinant DNA Activities
- IV-C-4—Other NIH Components
- IV-D—Compliance

V. Footnotes and References of Sections I-IV

VI. Voluntary Compliance
- VI-A—Basic Policy
- VI-B—IBC Approval
- VI-C—Certification of Host-Vector Systems
- VI-D—Requests for Exemptions and Approvals
- VI-E—Protection of Proprietary Date

Appendix A. Exemptions Under III-D-4

Appendix B. Classification of Microorganisms on the Basis of Hazard
- Appendix B-I—Classification of Etiologic Agents
- Appendix B-I-A—Class 1 Agents
- Appendix B-I-B—Class 2 Agents
- Appendix B-I-B-1—Bacterial Agents
- Appendix B-I-B-2—Fungal Agents
- Appendix B-I-B-3—Parasitic Agents
- Appendix B-I-B-4—Viral, Rickettsial, and Chlamydial Agents
- Appendix B-I-C—Class 3 Agents
- Appendix B-I-C-1—Bacterial Agents
- Appendix B-I-C-2—Fungal Agents
- Appendix B-I-C-3—Parasitic Agents
- Appendix B-I-C-4—Viral, Rickettsial, and Chlamydial Agents
- Appendix B-I-D—Class 4 Agents
- Appendix B-I-D-1—Bacterial Agents
- Appendix B-I-D-2—Fungal Agents
- Appendix B-I-D-3—Parasitic Agents
- Appendix B-I-D-4—Viral, Rickettsial, and Chlamydial Agents
- Appendix B-II—Classification of Oncogenic Viruses on the Basis of Potential Hazard
- Appendix B-II-A—Low Risk Oncogenic Viruses
- Appendix B-II-B—Moderate-Risk Oncogenic Viruses
- Appendix B-III—Class 5 Agents
- Appendix B-III-A—Animal Disease Organisms Which are Forbidden Entry into the United States by Law
- Appendix B-III-B—Animal Disease Organisms and Vectors Which are Forbidden Entry into the United States by USDA Policy
- Appendix B-III-C—Organisms Which May Not Be Studied in the United States Except At Specified Facilities
- Appendix B-IV—Footnotes and References of Appendix B

Appendix C. Exemptions Under III-D-5
- Appendix C-I—Recombinant DNAs in Tissue Culture
- Appendix C-II—Experiments Involving *E. coli* K-12 Host-Vector Systems
- Appendix C-III—Experiments Involving *Saccharomyces cerevisiae* Host-Vector Systems
- Appendix C-IV—Experiments Involving *Bacillus subtilis* Host-Vector Systems
- Appendix C-V—Footnotes and References of Appendix C

Appendix D. Actions Taken Under the Guidelines

Appendix E. Certified Host-Vector Systems

Appendix F. Containment Conditions for Cloning of Genes Coding for the Biosynthesis of Molecules Toxic for Vertebrates
- Appendix F-I—General Information
- Appendix F-II—Containment Conditions for Cloning of Toxic Molecule Genes in *E. coli* K-12
- Appendix F-III—Containment Conditions for Cloning of Toxic Molecule Genes in Organisms Other than *E. coli* K-12
- Appendix F-IV—Specific Approvals

Appendix G. Physical Containment
- Appendix G-I—Standard Practices and Training
- Appendix G-II—Physical Containment Levels
- Appendix G-II-A—P1 Level
- Appendix G-II-A-1—Laboratory Practices
- Appendix G-II-A-2—Containment Equipment
- Appendix G-II-A-3—Special Laboratory Design
- Appendix G-II-B—P2 Level
- Appendix G-II-B-1—Laboratory Practices
- Appendix G-II-B-2—Containment Equipment
- Appendix G-II-B-3—Special Laboratory Design
- Appendix G-II-C—P3 Level
- Appendix G-II-C-1—Laboratory Practices
- Appendix G-II-C-2—Containment Equipment
- Appendix G-II-C-3—Special Laboratory Design
- Appendix G-II-D—P4 Level
- Appendix G-II-D-1—Laboratory Practices
- Appendix G-II-D-2—Containment Equipment
- Appendix G-II-D-3—Special Laboratory Design
- Appendix G-III—Footnotes and References of Appendix G

Appendix H. Shipment

Appendix I. Biological Containment
- Appendix I-I—Levels of Biological Containment
- Appendix I-I-A—HV1
- Appendix I-I-A-1—EK1
- Appendix I-I-A-2—Other HV1
- Appendix I-I-B—HV2
- Appendix I-II—Certification of Host-Vector Systems
- Appendix I-II-A—Responsibility
- Appendix I-II-B—Data To Be Submitted for Certification
- Appendix I-II-B-1—HV1 Systems Other than *E. coli* K-12
- Appendix I-II-B-2—HV2 Systems
- Appendix I-III—Footnotes and References of Appendix I

Appendix J. Federal Interagency Advisory Committee on Recombinant DNA Research

I. Scope of the Guidelines

I-A. *Purpose.* The purpose of these Guidelines is to specify practices for constructing and handling (i) recombinant DNA molecules and (ii) organisms and viruses containing recombinant DNA molecules.

I-B. *Definition of Recombinant DNA Molecules.* In the context of these Guidelines, recombinant DNA molecules are defined as either (i) molecules which are constructed outside living cells by joining natural or synthetic DNA segments to DNA molecules that can replicate in a living cell, or (ii) DNA molecules that result from the replication of those described in (i) above.

Synthetic DNA segments likely to yield a potentially harmful

polynucleotide or polypeptide (e.g., a toxin or a pharmacologically active agent) shall be considered as equivalent to their natural DNA counterpart. If the synthetic DNA segment is not expressed *in vivo* as a biologically active polynucleotide or polypeptide product, it is exempt from the Guidelines.

I–C. *General Applicability.* The Guidelines are applicable to all recombinant DNA research within the United States or its territories which is conducted at or sponsored by an Institution that receives any support for recombinant DNA research from NIH. This includes research performed by NIH directly.

An individual receiving support for research involving recombinant DNA must be associated with or sponsored by an Institution that can and does assume the responsibilities assigned in these Guidelines.

The Guidelines are also applicable to projects done abroad if they are supported by NIH funds. If the host country, however, has established rules for the conduct of recombinant DNA projects, then a certificate of compliance with those rules may be submitted to NIH in lieu of compliance with the NIH Guidelines. NIH reserves the right to withhold funding if the safety practices to be employed abroad are not reasonably consistent with the NIH Guidelines.

I–D. *General Definitions.* The following terms, which are used throughout the Guidelines, are defined as follows:

IV–D–1. "Institution" means any public or private entity (including Federal, State, and local government agencies).

I–D–2. "Institutional Biosafety Committee" or "IBC" means a committee that (i) meets the requirements for membership specified in Section IV–B–2, and (ii) reviews, approves, and oversees projects in accordance with the responsibilities defined in Sections IV–B–2 and IV–B–3.

I–D–3. "NIH Office of Recombinant DNA Activities" or "ORDA" means the office within NIH with responsibility for (i) reviewing and coordinating all activities of NIH related to the Guidelines, and (ii) performing other duties as defined in Section IV–C–3.

I–D–4. "Recombinant DNA Advisory Committee" or "RAC" means the public advisory committee that advises the Secretary, the Assistant Secretary for Health, and the Director of the National Institutes of Health concerning recombinant DNA research. The RAC shall be constituted as specified in Section IV–C–2.

I–D–5. "Director, NIH" or "Director" means the Director of the National Institutes of Health or any other officer or employee of NIH to whom authority has been delegated.

II. Containment

Effective biological safety programs have been operative in a variety of laboratories for many years. Considerable information, therefore, already exists for the design of physical containment facilities and the selection of laboratory procedures applicable to organisms carrying recombinant DNAs [3–16]. The existing programs rely upon mechanisms that, for convenience, can be divided into two categories: (i) a set of standard practices that are generally used in microbiological laboratories, and (ii) special procedures, equipment, and laboratory installations that provide physical barriers which are applied in varying degrees according to the estimated biohazard. Four levels of physical containment, which are designated as P1, P2, P3, and P4 are described in Appendix G. P4 provides the most stringent containment conditions, P1 the least stringent.

Experiments on recombinant DNAs, by their very nature, lend themselves to a third containment mechanism—namely, the application of highly specific biological barriers. In fact, natural barriers do exist which limit either (i) the infectivity of a *vector*, or *vehicle*, (plasmid or virus) for specific hosts or (ii) its dissemination and survival in the environment. The vectors that provide the means for replication of the recombinant DNAs and/or the host cells in which they replicate can be genetically designed to decrease by many orders of magnitude the probability of dissemination or recombinant DNAs outside the laboratory. Further details on biological containment may be found in Appendix I.

As these three means of containment are complementary, different levels of containment appropriate for experiments with different recombinants can be established by applying various combinations of the physical and biological barriers along with a constant use of the standard practices. We consider these categories of containment separately in order that such combinations can be conveniently expressed in the Guidelines.

In constructing these Guidelines, it was necessary to define boundary conditions for the different levels of physical and biological containment and for the classes of experiments to which they apply. We recognize that these definitions do not take into account all existing and anticipated information on special procedures that will allow particular experiments to be carried out under different conditions than indicated here without affecting risk. Indeed, we urge that individual investigators devise simple and more effective containment procedures and that investigators and institutional biosafety committees recommend changes in the Guidelines to permit their use.

III. Containment Guidelines for Covered Experiments

Part III discusses experiments involving recombinant DNA. These experiments have been divided into four classes:

III–A. Experiments which require specific RAC review and NIH and IBC approval before initiation of the experiment;

III–B. Experiments which require IBC approval before initiation of the experiment;

III–C. Experiments which require IBC notification at the time of initiation of the experiment;

III–D. Experiments which are exempt from the procedures of the Guidelines.

If an experiment falls into both class III–A and one of the other classes, the rules pertaining to class III–A must be followed. If an experiment falls into class III–D and into either class III–B or III–C as well, it can be considered exempt from the requirements of the Guidelines.

Changes in containment levels from those specified here may not be instituted without the express approval of the Director, NIH. (See Sections IV–C–1–b–(1), IV–C–1–b–(2), and subsections.)

III–A. *Experiments that Require RAC Review and NIH an IBC Approval Before Initiation.* Experiments in this category cannot be initiated without submission of relevant information on the proposed experiment to NIH, the publication of the proposal in the **Federal Register** for thirty days of comment, review by the RAC, and specific approval by NIH. The containment conditions for such experiments will be recommended by RAC and set by NIH at the time of approval. Such experiments also require the approval of the IBC before initiation. Specific experiments already approved in this section and the appropriate containment conditions are listed in Appendices D and F If an experiment is similar to those listed in Appendices D and F, ORDA may determine appropriate containment conditions

according to case precedents under Section IV–C–1–b–(3)–(g).

III–A–1. Deliberate formation of recombinant DNAs containing genes for the biosynthesis of toxic molecules lethal for vertebrates at an LD_{50} of less than 100 nanograms per kilogram body weight (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella dysenteriae* neurotoxin). Specific approval has been given for the cloning in *E. coli* K–12 of DNAs containing genes coding for the biosynthesis of toxic molecules which are lethal to vertebrates at 100 nanograms to 100 micrograms per kilogram body weight. Containment levels for these experiments are specified in Appendix F.

III–A–2. Deliberate release into the environment of any organism containing recombinant DNA.

III–A–3. Deliberate transfer of a drug resistance trait to microorganisms that are not known to acquire it naturally [2], if such acquisition could compromise the use of the drug to control disease agents in human or veterinary medicine or agriculture.

III–B *Experiments that Require IBC Approval Before Initiation.* Investigators performing experiments in this category must submit to their Institutional Biosafety Committee (IBC), prior to initiation of the experiments, a registration document that contains a description of: (a) the source(s) of DNA, (b) the nature of the inserted DNA sequences, (c) the hosts and vectors to be used, (d) whether a deliberate attempt will be made to obtain expression of a foreign gene, and, if so, what protein will be produced, and (e) the containment conditions specified in these Guidelines. This registration document must be dated and signed by the investigator and filed only with the local IBC. The IBC shall review all such proposals prior to initiation of the experiments. Requests for lowering of containment for experiments in this cateogry will be considered by NIH. (See Section IV–C–1–b–(3).)

III–B–1. *Experiments Using Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents [1]) as Host-Vector Systems.*

III–B–1–a. Experiments involving the introduction of recombinant DNA into Class 2 agents can be carried out at P2 containment.

III–B–1–b. Experiments involving the introduction of recombinant DNA into Class 3 agents can be carried out at P3 containment.

III–B–1–c. Experiments involving the introduction of recombinant DNA into Class 4 agents can be carried out at P4 containment.

III–B–1–d. Containment conditions for experiments involving the introduction of recombinant DNA into Class 5 agents will be set on a case-by-case basis following ORDA review. A USDA permit is required for work with Class 5 agents [18, 20].

III–B–2. *Experiments in Which DNA from Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents [1]) is Cloned in Nonpathogenic Prokaryotic or Lower Eukaryotic Host-Vector Systems.*

III–B–2–a. Recombinant DNA experiments in which DNA from Class 2 or Class 3 agents [1] is transferred into nonpathogenic prokaryotes or lower eukaryotes may be performed under P2 containment. Recombinant DNA experiments in which DNA from Class 4 agents is transferred into nonpathogenic prokaryotes or lower eukaryotes can be performed at P2 containment after demonstration that only a totally and irreversibly defective fraction of the agent's genome is present in a given recombinant. In the absence of such a demonstration, P4 containment should be used. Specific lowering of containment to P1 for particular experiments can be approved by the IBC. Many experiments in this category will be exempt from the Guidelines. (See Section III–D–4 and III–D–5.) Experiments involving the formation of recombinant DNAs for certain genes coding for molecules toxic for vertebrates require RAC review and NIH approval (see Section III–A–1), or must be carried out under NIH specified conditions as described in Appendix F.

III–B–2–b. Containment conditions for experiments in which DNA from Class 5 agents is transferred into nonpathogenic prokaryotes or lower eukayotes will be determined by ORDA following a case-by-case review. A USDA permit is required for work with Class 5 agents [18, 20].

III–B–3. *Experiments Involving the Use of Infectious Animal or Plant Viruses or Defective Animal or Plant Viruses in the Presence of Helper Virus in Tissue Culture Systems.*

Caution: Special care should be used in the evaluation of containment levels for experiments which are likely to either enhance the pathogenicity (e.g., insertion of a host oncogene) or to extend the host range (e.g., introduction of novel control elements) of viral vectors under conditions which permit a productive infection. In such cases, serious consideration should be given to raising the physical containment by at least one level.

Note.—Recombinant DNA molecules which contain less than two-thirds of the genome of any eukaryotic virus (all virus from a single Family [17] being considered identical [19]) may be considered defective and can be used, in the absence of helper, under the conditions specified in Section III–C.

III–B–3–a. Experiments involving the use of infectious Class 2 animal viruses [1], or defective Class 2 animal viruses in the presence of helper virus, can be carried out at P2 containment.

III–B–3–b. Experiments involving the use of infectious Class 3 animal viruses [1], or defective Class 3 animal viruses in the presence of helper virus, can be performed at P3 containment.

III–B–3–c. Experiments involving the use of infectious Class 4 viruses [1], or defective Class 4 viruses in the presence of helper virus, may be carried out under P4 containment.

III–B–3–d. Experiments involving the use of infectious Class 5 [1] viruses, or defective Class 5 viruses in the presence of helper virus will be determined on a case-by-case basis following ORDA review. A USDA permit is required for work with Class 5 pathogens [18, 20].

III–B–3–e. Experiments involving the use of infectious animal or plant viruses, or defective animal or plant viruses in the presence of helper virus, not covered by Sections III–B–3–a, III–B–3–b, III–B–3–c, or III–B–3–d may be carried out under P1 containment.

III–B–4. *Recombinant DNA Experiments Involving Whole Animals or Plants.*

III–B–4–a. DNA from any source except for greater than two-thirds of a eukaryotic viral genome may be transferred to any non-human vertebrate organism and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study [2]. It is important that the investigator demonstrate that the fraction of the viral genome being utilized does not lead to productive infection. A USDA permit is required for work with Class 5 agents [18, 20].

III–B–4–b. For all experiments involving whole animals and plants and not covered by III–B–4–a, the appropriate containment will be determined by the IBC.

III–B–5. *Experiments Involving More than 10 Liters of Culture.* The appropriate containment will be decided by the IBC. Where appropriate, the large-scale containment recommendations of the NIH should be used (45 FR 24968).

III–C. *Experiments that Require IBC Notice Simultaneously with Initiation of Experiments.* Experiments not included in Sections III–A, III–B, III–D, and subsections of these Sections are to be

considered in Section III–C. All such experiments can be carried out at P1 containment. For experiments in this category, a registration document as described in Section III–B must be dated and signed by the investigator and filed with the local IBC. The IBC shall review all such proposals, but IBC review prior to initiation of the experiment is not required. (The reader should refer to the policy statement in the first two paragraphs of Section IV–A.)

For example, experiments in which all components derive from non-pathogenic prokaryotes and non-pathogenic lower eukaryotes fall under Section III–C and can be carried out at P1 containment.

Caution: *Experiments Involving Formation of Recombinant DNA Molecules Containing no more Than Two-Thirds of the Genome of any Eukaryotic Virus.* Recombinant DNA molecules containing no more than two-thirds of the genome of any eukaryotic virus (all viruses from a single Family [17] being considered identical [19]) may be propagated and maintained in cells in tissue culture using P1 containment. For such experiments, it must be shown that the cells lack helper virus for the specific Families of defective viruses being used. If helper virus is present, procedures specified under Section III–B–3 should be used. The NDA may contain fragments of the genome of viruses from more than one Family but each fragment must be less than two-thirds of a genome.

III–D. *Exempt Experiments.* The following recombinant DNA molecules are exempt from these Guidelines and no registration with the IBC is necessary.

III–D–1. Those that are not in organisms or viruses.

III–D–2. Those that consist entirely of DNA segments from a single non-chromosomal or viral DNA source, though one or more of the segments may be a synthetic equivalent.

III–D–3. Those that consist entirely of DNA from a prokaryotic host, including its indigenous plasmids or viruses, when propagated only in that host (or a closely related strain of the same species) or when transferred to another host by well established physiological means; also, those that consist entirely of DNA from an eukaryotic host, including its chloroplasts, mitochondria, or plasmids (but excluding viruses), when propagated only in that host (or a closely related strain of same species).

III–D–4. Certain specified recombinant DNA molecules that consist entirely of DNA segments from different species that exchange DNA by known physiological processes, though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment. (See Section IV–C–1–b–(1)–(c).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix A. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205.

III–D–5. Other classes of recombinant DNA molecules, if the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment, finds that they do not present a significant risk to health or the environment. (See Section IV–C–1–b–(1)–(c).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix C. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205.

IV. Roles and Responsibilities

IV–A. *Policy.* Safety in activities involving recombinant DNA depends on the individual conducting them. The Guidelines cannot anticipate every possible situation. Motivation and good judgement are the key essentials to protection of health and the environment.

The Guidelines are intended to help the Institution, the Institutional Biosafety Committee (IBC), the Biological Safety Officer, and the Principal Investigator determine the safeguards that should be implemented. These Guidelines will never be complete or final, since all conceivable experiments involving recombinant DNA cannot be foreseen. Therefore, *it is the responsibility of the Institution and those associated with it to adhere to the intent of the Guidelines as well as to their specifics.*

Each Institution (and the IBC acting on its behalf) is responsible for ensuring that recombinant DNA activities comply with the Guidelines. General recognition of institutional authority and responsibility properly establishes accountability for safe conduct of the research at the local level.

The following roles and responsibilities constitute an administrative framework in which safety is an essential and integral part of research involving recombinant DNA molecules. Further clarifications and interpretations of roles and responsibilities will be issued by NIH as necessary.

IV–B. *Responsibilities of the Institution.*

IV–B–1. *General Information.* Each Institution conducting or sponsoring recombinant DNA research covered by these Guidelines is responsible for ensuring that the research is carried out in full comformity with the provisions of the Guidelines. In order to fulfill this responsibility, the Institution shall:

IV–B–1–a. Establish and implement policies that provide for the safe conduct of recombinant DNA research and that ensure compliance with the Guidelines. The Institution, as part of its general responsibilities for implementing the Guidelines, may establish additional procedures, as deemed necessary, to govern the institution and its components in the discharge of it responsibilities under the Guidelines. This may include (i) statements formulated by the Institution for general implementation of the Guidelines and (ii) whatever additional precautionary steps the Institution may deem appropriate.

IV–B–1–b. Establish an Institutional Biosafety Committee (IBC) that meets the requirements set forth in Section IV–B–2 and carries out the functions detailed in Section IV–B–3.

IV–B–1–c. If the Institution is engaged in recombinant DNA research at the P3 or P4 containment level, appoint a Biological Safety Officer (BSO), who shall be a member of the IBC and carry out the duties specified in Section IV–B–4.

IV–B–1–d. Require that investigators responsible for research covered by these Guidelines comply with the provisions of Section IV–B–5, and assist investigators to do so.

IV–B–1–e. Ensure appropriate training for the IBC chairperson and members, the BSO, Principal Investigators (PIs), and laboratory staff regarding the Guidelines, their implementation, and laboratory safety. Responsibility for training IBC members may be carried out through the IBC chairperson. Responsibility for training laboratory staff may be carried out through the PI. The Institution is responsible for seeing that the PI has sufficient training, but may delegate this responsibility to the IBC.

IV–B–1–f. Determine the necessity, in connection with each project, for health surveillance of recombinant DNA research personnel, and conduct, if found appropriate, a health surveillance program for the project. [The Laboratory Safety Monograph (LSM) discusses various possible components of such a program—for example, records of agents handled, active investigation of relevant

illnesses, and the maintenance of serial serum samples for monitoring serologic changes that may result from the employee's work experience. Certain medical conditions may place a laboratory worker at increased risk in any endeavor where infectious agents are handled. Examples given in the LSM include gastrointestinal disorders and treatment with steroids, immunosuppressive drugs, or antibiotics. Workers with such disorders or treatment should be evaluated to determine whether they should be engaged in research with potentially hazardous organisms during their treatment or illness. Copies of the LSM are available from ORDA.]

IV–B–1–g. Report within 30 days to ORDA any significant problems with and violations of the Guidelines and significant research-related accidents and illnesses, unless the institution determines that the PI or IBC has done so.

IV–B–2. *Membership and Procedures of the IBC.* The Institution shall establish as Institutional Biosafety Committee (IBC) whose responsibilities need not be restricted to recombinant DNA. The committee shall meet the following requirements:

IV–B–2–a. The IBC shall comprise no fewer than five members so selected that they collectively have experience and expertise in recombinant DNA technology and the capability to assess the safety of recombinant DNA research experiments and any potential risk to public health or the environment. At least two members shall not be affiliated with the Institution (apart from their membership on the IBC) and shall represent the interest of the surrounding community with respect to health and protection of the environment. Members meet this requirement if, for example, they are officials of State or local public health or environmental protection agencies, members of other local governmental bodies, or persons active in medical, occupational health, or environmental concerns in the community. The Biological Safety Officer (BSO), mandatory when research is being conducted at the P3 and P4 levels, shall be a member. (See Section IV–B–4.)

IV–B–2–b. In order to ensure the competence necessary to review recombinant DNA activities, it is recommended that (i) the IBC include persons with experties in recombinant DNA technology, biological safety, and physical containment; (ii) the IBC include, or have available as consultants, persons knowledgeable in institutional commitments and policies, applicable law, standards of professional conduct and practice, community attitudes, and the environment; and (iii) at least one member be from the laboratory technical staff.

IV–B–2–c. The Institution shall identify the committee members by name in a report to the NIH Office of Recombinant DNA Activities (ORDA) and shall include relevant background information on each member in such form and at such times as ORDA may require.

IV–B–2–d. No member of an IBC may be involved (excepted to provide information requested by the IBC) in the review or approval of a project in which he or she has been, or expects to be, engaged or has a direct financial interest.

IV–B–2–e. The Institution, who is ultimately responsible for the effectiveness of the IBC, may establish procedures that the IBC will follow in its initial and continuing review of applications, proposals, and activities. (IBC review procedures are specified in Section IV–B–3–a.)

IV–B–2–f. Institutions are encouraged to open IBC meetings to the public whenever possible, consistent with protection of privacy and proprietary interests.

IV–B–2–g. Upon request, the Institution shall make available to the public all minutes of IBC meetings and any documents submitted to or received from funding agencies which the latter are required to make available to the public. If comments are made by members of the public on IBC actions, the Institution shall forward to NIH both the comments and the IBC's response.

IV–B–3. *Functions of the IBC.* On behalf of the Institution, the IBC is responsible for:

IV–B–3–a. Reviewing for compliance with the NIH Guidelines recombinant DNA research as specified in Part III conducted at or sponsored by the Institution, and approving those research projects that it finds are in conformity with the Guidelines. This review shall include:

IV–B–3–a–(1). An independent assessment of the containment levels required by these Guidelines for the proposed research, and

IV–B–3–a–(2). An assessment of the facilities, procedures, and practices, and of the training and expertise of recombinant DNA personnel.

IV–B–3–b. Notifying the Principal Investigator (PI) of the results of their review.

IV–B–3–c. Lowering containment levels for certain experiments as specified in Sections III–B–2.

IV–B–3–d. Setting containment levels as specified in Section III–B–4–b and III–B–5.

IV–B–3–e. Reviewing periodically recombinant DNA research being conducted at the Institution, to ensure that the requirements of the Guidelines are being fulfilled.

IV–B–3–f. Adopting emergency plans covering accidental spills and personnel contamination resulting from such research.

Note.—Basic elements in developing specific procedures for dealing with major spills of potentially hazardous materials in the laboratory are detailed in the Laboratory Safety Monograph (LSM). Included are information and references on decontamination and emergency plans. NIH and the Centers for Disease Control are available to provide consultation, and direct assistance if necessary, as posted in the LSM. The Institution shall cooperate with the State and local public health departments, reporting any significant research-related illness or accident that appears to be a hazard to the public health.

IV–B–3–g. Reporting within 30 days to the appropriate institutional official and to the NIH Office of Recombinant DNA Activities (ORDA) any significant problems with or violations of the Guidelines, and any significant research-related accidents or illnesses, unless the IBC determines that the PI has done so.

IV–B–3–h. The IBC may not authorize initiation of experiments not explicitly covered by the Guidelines until NIH (with the advice of the RAC when required) establishes the containment requirement.

IV–B–3–i. Performing such other functions as may be delegated to the IBC under Section IV–B–1.

IV–B–4. *Biological Safety Officer.* The Institution shall appoint a BSO if it engages in recombinant DNA research at the P3 or P4 containment level. The officer shall be a member of the Institutional Biosafety Committee (IBC), and his or her duties shall include (but need not be limited to):

IV–B–4–a. Ensuring through periodic inspections that laboratory standards are rigorously followed;

IV–B–4–b. Reporting to the IBC and the Institution all significant problems with and violations of the Guidelines and all significant research-related accidents and illnesses of which the BSO becomes aware, unless the BSO determines that the Principal Investigator (PI) has done so;

IV–B–4–c. Developing emergency plans for dealing with accidental spills and personnel contamination, and

investigating recombinant DNA research laboratory accidents;

IV–B–4–d. Providing advice on laboratory security;

IV–B–4–e. Providing technical advice to the PI and the IBC on research safety procedures.

Note.—See Laboratory Safety Monograph for additional information on the duties of the BSO.

IV–B–5. *Principal Investigator.* On behalf of the Institution, the PI is responsible for complying fully with the Guidelines in conducting any recombinant DNA research.

IV–B–5–a. *PI—General.* As part of this general responsibility, the PI shall:

IV–B–5–a–(1). Initiate or modify no recombinant DNA research requiring approval by the IBC prior to initiation (see Sections III–A and III–B) until that research, or the proposed modification thereof, has been approved by the IBC and has met all other requirements of the Guidelines;

IV–B–5–a–(2). Determine whether experiments are covered by Section III–C and follow the appropriate procedures;

IV–B–5–a–(3). Report within 30 days to the IBC and NIH (ORDA) all significant problems with and violations of the Guidelines and all significant research-related accidents and illnesses;

IV–B–5–a–(4). Report to the IBC and to NIH (ORDA) new information bearing on the Guidelines;

IV–B–5–a–(5). Be adequately trained in good microbiological techniques;

IV–B–5–a–(6). Adhere to IBC-approved emergency plans for dealing with accidental spills and personnel contamination; and

IV–B–5–a–(7). Comply with shipping requirements for recombinant DNA molecules. (See Apendix H for shipping requirements and the Laboratory Safety Monograph for technical recommendations.)

IV–B–5–b. *Submissions by the PI to NIH.* The PI shall:

IV–B–5–b–(1). Submit information to NIH (ORDA) in order to have new host-vector systems certified;

IV–B–5–b–(2). Petition NIH, with notice to the IBC, for exemptions to these Guidelines;

IV–B–5–b–(3). Petition NIH, with concurrence of the IBC, for approval to conduct experiments specified in Section III–A of the Guidelines;

IV–B–5–b–(4). Petition NIH for determination of containment for experiments requiring case-by-case review;

IV–B–5–b–(5). Petition NIH for determination of containment for experiments not covered by the Guidelines.

IV–B–5–c. *Submissions by the PI to the IBC.* The PI shall:

IV–B–5–c–(1). Make the initial determination of the required levels of physical and biological containment in accordance with the Guidelines;

IV–B–5–c–(2). Select appropriate microbiological practices and laboratory techniques to be used in the research;

IV–B–5–c–(3). Submit the initial research protocol if covered under Guidelines Sections III–A, III–B, or III–C (and also subsequent changes—e.g., changes in the source of DNA or host-vector system) to the IBC for review and approval or disapproval; and

IV–B–5–c–(4). Remain in communication with the IBC throughout the conduct of the project.

IV–B–5–d. *PI Responsibilities Prior to Initiating Research.* The PI is responsible for:

IV–B–5–d–(1). Making available to the laboratory staff copies of the protocols that describe the potential biohazards and the precautions to be taken;

IV–B–5–d–(2). Instructing and training staff in the practices and techniques required to ensure safety and in the procedures for dealing with accidents; and

IV–B–5–d–(3). Informing the staff of the reasons and provisions for any precautionary medical practices advised or requested, such as vaccinations or serum collection.

IV–B–5–e. *PI Responsibilities During the Conduct of the Research.* The PI is responsible for:

IV–B–5–e–(1). Supervising the safety performance of the staff to ensure that the required safety practices and techniques are employed;

IV–B–5–e–(2). Investigating and reporting in writing to ORDA, the Biological Safety Officer (where applicable), and the IBC any significant problems pertaining to the operation and implementation of containment practices and procedures;

IV–B–5–e–(3). Correcting work errors and conditions that may result in the release of recombinant DNA materials;

IV–B–5–e–(4). Ensuring the integrity of the physical containment (e.g., biological safety cabinets) and the biological containment (e.g., purity, and genotypic and phenotypic characteristics).

IV–C. *Responsibilities of NIH.*

IV–C–1. *Director.* The Director, NIH, is responsible for (i) establishing the NIH Guidelines for Research Involving Recombinant DNA Molecules, (ii) overseeing their implementation, and (iii) their final interpretation.

The Director has responsibilities under the Guidelines that involve the NIH Office of Recombinant DNA Activities (ORDA) and the Recombinant DNA Advisory Committee (RAC). ORDA's responsibilities under the Guidelines are administrative. Advice from the RAC is primarily scientific and technical. In certain circumstances, there is specific opportunity for public comment, with published response, before final action.

IV–C–1–a. *General Responsibilities of the Director, NIH.* The responsibilities of the Director shall include the following:

IV–C–1–a–(1). Promulgating requirements as necessary to implement the Guidelines;

IV–C–1–a–(2). Establishing and maintaining the RAC to carry out the responsibilities set forth in Section IV–C–2. The RAC's membership is specified in its charter and in Section IV–C–2;

IV–C–1–a–(3). Establishing and maintaining ORDA to carry out the responsibilities defined in Section IV–C–3; and

IV–C–1–a–(4). Maintaining the Federal Interagency Advisory Committee on Recombinant DNA Research established by the Secretary, HEW (now HHS), for advice on the coordination of all Federal programs and activities relating to recombinant DNA, including activities of the RAC. (See Appendix J.)

IV–C–1–b. *Specific Responsibilities of the Director, NIH.* In carrying out the responsibilities set forth in this Section, the Director or a designee shall weigh each proposed action, through appropriate analysis and consultation, to determine that it complies with the Guidelines and presents no significant risk to health or the environment.

IV–C–1–b–(1). *Major Actions.* To execute major actions the Director must seek the advice of the RAC and provide an opportunity for public and Federal agency comment. Specifically, the agenda of the RAC meeting citing the major actions will be published in the **Federal Register** at least 30 days before the meeting, and the Director will also publish the proposed actions in the **Federal Register** for comment at least 30 days before the meeting. In addition, the Director's proposed decision, at his discretion, may be published in the **Federal Register** for 30 days of comment before final action is taken. The Director's final decision, along with response to the comments, will be published in the **Federal Register** and the *Recombinant DNA Technical Bulletin.* The RAC and IBC chairpersons will be notified of this decision:

IV–C–1–b–(1)–(a). Changing containment levels for types of experiments that are specified in the

Guidelines when a major action is involved;

IV–C–1–b–(1)–(b). Assigning containment levels for types of experiments that are not explicitly considered in the Guidelines when a major action is involved;

IV–C–1–b–(1)–(c). Promulgating and amending a list of classes of recombinant DNA molecules to be exempt from these Guidelines because they consist entirely of DNA segments from species that exchange DNA by known physiological processes, or otherwise do not present a significant risk to health or the environment;

IV–C–1–b–(1)–(d). Permitting experiments specified by Section III–A of the Guidelines;

IV–C–1–b–(1)–(e). Certifying new host-vector systems, with the exception of minor modifications of already certified systems (the standards and procedures for certification are described in Appendix I–II–A. Minor modifications constitute, for example, those of minimal or no consequence to the properties relevant to containment); and

IV–C–1–b–(1)–(f). Adopting other changes in the Guidelines.

IV–C–1–b–(2). *Lesser Actions.* To execute lesser actions, the Director must seek the advice of the RAC. The Director's decision will be transmitted to the RAC and IBC chairpersons and published in the *Recombinant DNA Technical Bulletin:*

IV–C–1–b–(2)–(a). Interpreting and determining containment levels, upon request by ORDA;

IV–C–1–b–(b). Changing containment levels for experiments that are specified in the Guidelines (see Section III);

IV–C–1–b–(2)–(c). assigning containment levels for experiments not explicityly considered in the Guidelines;

IV–C–1–b–(2)–(d). Revising the "Classification of Etiologic Agencts" for the purpose of these Guidelines [1].

IV–C–1–b–(3). *Other Actions.* The Director's decision will be transmitted to the RAC and IBC chairpersons and published in the *Recombinant DNA Technical Bulletin:*

IV–C–1–b–(3)–(a). Interpreting the Guidelines for experiments to which the Guidelines specifically assign containment levels;

IV–C–1–b–(3)–(b). Setting containment under Section III–B–1–d and Section III–B–3–d;

IV–C–1–b–(3)–(c). Approving minor modifications of already certified host-vector systems (the standards and procedures for such modifications are described in Appendix I–II);

IV–C–1–b–(3)–(d). Decertifying already certified host-vector systems;

IV–C–1–b–(3)–(e). Adding new entries to the list of molecules toxic for vertebrates (see Appendix F);

IV–C–1–b–(3)–(f). Approving the cloning of toxin genes in host-vector systems other than *E. coli* K–12 (See Appendix F); and

IV–C–1–b–(3)–(g). Determining appropriate containment conditions for experiments according to case precedents developed under Section IV–C–1–b–(2)–(c).

IV–C–1–b–(4). The Director shall conduct, support, and assist training programs in laboratory safety for Institutional Biosafety Committee members, Biological Safety Officers, Principal Investigators, and laboratory staff.

IV–C–2. *Recombinant DNA Advisory Committee.* The NIH Recombinant DNA Advisory Committee (RAC) is responsible for carrying out specified functions cited below as well as others assigned under its charter or by the Secretary, HHS, the Assistant Secretary for Health, and the Director, NIH.

The members of the committee shall be chosen to provide, collectively, expertise in scientific fields relevant to recombinant DNA technology and biological safety—e.g., microbiology, molecular biology, virology, genetics, epidemiology, infectious diseases, the biology of enteric organisms, botany, plant pathology, ecology, and tissue culture. At least 20 percent of the members shall be persons knowledgeable in applicable law, standards of professional conduct and practice, public attitudes, the environment, public health, occupational health, or related fields. Representatives from Federal agencies shall serve as nonvoting members. Nominations for the RAC may be submitted to the NIH Office of Recombinant DNA Activities, Bethesda, Md. 20205.

All meetings of the RAC will be announced in the **Federal Register**, including tentative agenda items, 30 days in advance of the meeting, with final agendas (if modified) available at least 72 hours before the meeting. No item defined as a major action under Section IV–C–1–b–(1) may be added to an agenda after it appears in the **Federal Register.**

The RAC shall be responsible for advising the Director, NIH, on the actions listed in Section IV–C–1–b–(1) and IV–C–1–b–(2).

IV–C–3. *The Office of Recombinant DNA Activities.* ORDA shall serve as a focal point for information on recombinant DNA activities and provide advice to all within and outside NIH, including Institutions, Biological Safety Committees, Principal Investigators, Federal agencies, State and local governments, and institutions in the private sector. ORDA shall carry out such other functions as may be delegated to it by the Director, NIH, including those authorities described in Section IV–C–1–b–(3). In addition, ORDA shall be responsible for the following:

IV–C–3–a. Reviewing and approving Institutional Biosafety Committee (IBC) membership;

IV–C–3–b. Publishing in the **Federal Register:**

IV–C–3–b–(1). Announcements of Recombinant DNA Advisory Committee (RAC) meetings and agendas at least 30 days in advance;

Note.—If the agenda for an RAC meeting is modified, ORDA shall make the revised agenda available to anyone, upon request, at least 72 hous in advance of the meeting.

IV–C–3–b–(2). Proposed major actions of the type falling under Section IV–C–1–b–(1) at least 30 days prior to the RAC meeting at which they will be considered; and

IV–C–3–b–(3). The NIH Director's final decision on recommendations made by the RAC.

IV–C–3–c. Publishing the *recombinant DNA Technical Bulletin;* and

IV–C–3–d. Serving as executive secretary of the RAC.

IV–C–4. *Other NIH Components.* Other NIH components shall be responsible for certifying P4 facilities, inspecting them periodically, and inspecting other recombinant DNA facilities as deemed necessary.

IV–D. *Compliance.* As a condition for NIH funding of recombinant DNA research, Intitutions must ensure that such research conducted at or sponsored by the Institution, irrespective of the source of funding, shall comply with these Guidelines. The policies on noncompliance are as follows:

IV–D–1. All NIH-funded projects involving recombinant DNA techniques must comply with the NIH Guidelines. Noncopliance may result in: (i) Suspension, limitation, or termination of financial assistance for such projects and of NIH funds for other recombinant DNA research at the Institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the Institution.

IV–D–2. All non-NIH funded projects involving recombinant DNA techniques conducted at or sponsored by an Institution that receives NIH funds for projects involving such techniques must comply with the NIH Guidelines. Noncompliance may result in (i)

suspension, limitation, or termination of NIH funds for recombinant DNA research at the Institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the Institution.

IV–D–3. Information concerning noncompliance with the Guidelines may be brought forward by any person. It should be delivered to both NIH (ORDA) and the relevant Institution. The Institution, generally through the IBC, shall take appropriate action. Tlhe Institution shall forward a complete report of the incident to ORDA, recommending any further action indicated.

IV–D–4. In cases where NIH proposes to suspend, limit, or terminate financial assistance because of noncompliance with the Guidelines, applicable DHHS and Public Health Service Procedures shall govern.

See Appendix J for information on the Federal Interagency Advisory Committee on Recombinant DNA Research.

IV–D–5. *Voluntary Compliance.* Any individual, corporation, or institution that is not otherwise covered by the Guidelines is encouraged to conduct recombinant DNA research activities in accordance with the Guidelines, through the procedures set forth in Part VI.

V. Footnotes and References of Sections I–IV

1. The original reference to organisms as Class 1, 2, 3, 4, or 5 refers to the classification in the publication *Classification of Etiologic Agents on the Basis of Hazard*, 4th Edition, July 1974; U.S. Department of Health, Education, and Welfare, Public Health Service, Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

The Director, NIH, with advice of the Recombinant DNA Advisory Committee, may revise the classification for the purposes of these Guidelines (see Section IV–C–1–b–(2)–(d)). The revised list of organisms in each class is reprinted in Appendix B to these Guidelines.

2. In Part III of the Guidelines, there are a number of places where judgments are to be made. In all these cases the principal investigator is to make the judgment on these matters as part of his responsibility to "make the initial determination of the required levels of physical and biological containment in accordance with the Guidelines" (Section IV–B–5–c–(1)). In the cases falling under Sections III–A, –B or –C, this judgment is to be reviewed and approved by the Institutional Biosafety Committee as part of its responsibility to make "an independent assessment of the containment levels required by these Guidelines for the proposed research" (Section IV–B–3–a–(1)). If the IBC wishes, any specific cases may be referred to the NIH Office of Recombinant DNA Activities as part of ORDA's functions to "provide advice to all within and outside NIH" (Section IV–C–3), and ORDA may request advice from the Recombinant DNA Advisory Committee as part of the RAC's responsibility for "interpreting and determining containment levels upon request by ORDA" (Section IV–C–1–b–(2)–(a)).

3. *Laboratory Safety at the Center for Disease Control* (Sept. 1974). U.S. Department of Health Education and Welfare Publication No. CDC 75–8118.

4. *Classification of Etiologic Agents on the Basis of Hazard.* (4th Edition, July 1974). U.S. Department of Health, Education and Welfare. Public Health Service. Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

5. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (Oct. 1974). U.S. Department of Health, Education and Welfare Publication No. (NIH) 75–790.

6. *National Institutes of Health Biohazards Safety Guide* (1974). U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health. U.S. Government Printing Office, Stock No. 1740–00383.

7. *Biohazards in Biological Research* (1973). A. Hellman, M. N. Oxman, and R. Pollack (ed.) Cold Spring Harbor Laboratory.

8. *Handbook of Laboratory Safety* (1971). Second Edition. N. V. Steere (ed.). The Chemical Rubber Co., Cleveland.

9. Bodily, J. L. (1970). *General Adminstration of the Laboratory*, H. L. Bodily, E L. Updyke, and J. O. Mason (eds.), Diagnostic Procedures for Bacterial, Mycotic and Parasitic Infections. American Public Health Association, New York, pp. 11–28.

10. Darlow, H. M. (1969). *Safety in the Microbiological Laboratory.* In J. R. Norris and D. W. Robbins (ed.), Methods in Microbiology. Academic Press, Inc. New York pp. 169–204.

11. *The Prevention of Laboratory Acquired Infection* (1974). C. H. Collins, E. G. Hartley, and R. Pilsworth. Public Health Laboratory Service, Monograph Series No. 6.

12. *Chatigny, M. A. (1961). Protection Against Infection in the Microbiological Laboratory: Devices and Procedures.* In W. W. Umbreit (ed.). Advances in Applied Microbiology. Academic Press, New York, N.Y. 3:131–192.

13. *Design Criteria for Viral Oncology Research Facilities* (1975). U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health, DHEW Publication No. (NIH) 75–891.

14. Kuehne, R. W. (1973). *Biological Containment Facility for Studying Infectious Disease.* Appl. Microbiol. 26–239–243.

15. Runkle, R. S., and G. B. Phillips (1969). *Microbial Containment Control Facilities.* Van Nostrand Reinhold, New York.

16. Chatigny, M. A., and D. I. Clinger (1969). *Contamination Control in Aerobiology.* In R. L. Dimmick and A. B. Akers (eds.). An Introduction to Experimental Aerobiology. John Wiley & Sons, New York, pp. 194–263.

17. As classified in the Third Report of the International Committee on Taxonomy of Viruses: Classification and Nomenclature of Viruses, R. E. F. Matthews, Ed. Intervirology 12 (129–296) 1979.

18. A USDA permit, required for import and interest transport of pathogens, may be obtained from the Animal and Plant Health Inspection Service, USDA, Federal Building, Hyattsville, MD 20782.

19. i.e., the total of all genomes within a Family shall not exceed two-thirds of the genome.

20. All activities, including storage of variola and whitepox are restricted to the single national facility (World Health Organization (WHO) Collaborating Center for Smallpox Research, Centers for Disease Control, in Atlanta).

VI. Voluntary Compliance

VI–A. *Basic Policy.* Individuals, corporations, and institutions not otherwise covered by the Guidelines are encouraged to do so by following the standards and procedures set forth in Parts I–IV of the Guidelines. In order to simplify discussion, references hereafter to "institutions" are intended to encompass corporations, and individuals who have no organizational affiliation. For purposes of complying with the Guidelines, an individual intending to carry out research involving recombinant DNA is encouraged to affiliate with an institution that has an Institutional Biosafety Committee approved under the Guidelines.

Since commercial organizations have special concerns, such as protection of proprietary data, some modifications and explanations of the procedures in Parts I–IV are provided below, in order to address these concerns.

VI–B. *IBC Approval.* The NIH Office of Recombinant DNA Activities (ORDA) will review the membership of an institution's Institutional Biosafety Committee (IBC) and, where it finds the IBC meets the requirements set forth in Section IV–B–2, will give its approval to the IBC membership.

It should be emphasized that employment of an IBC member solely for purposes of membership on the IBC does not itself make the member an institutionally affiliated member for purposes of Section IV–B–2–a.

Except for the unaffiliated members, a member of an IBC for an institution not otherwise covered by the Guidelines may participate in the review and approval of a project in which the member has a direct financial interest, so long as the member has not been and does not expect to be engaged in the project. Section IV–B–2–d is modified to that extent for purposes of these institutions.

VI–C. *Certification of Host-Vector Systems.* A host-vector system may be proposed for certification by the Director, NIH, in accordance with the procedures set forth in Appendix I–II–A.

In order to ensure protection for proprietary data, any public notice regarding a host-vector system which is

designated by the institution as proprietary under Section VI–E–1 will be issued only after consultation with the institution as to the content of the notice.

VI–D. *Requests for Exemptions and Approvals.* Requests for exemptions or other approvals required by the Guidelines should be requested by following the procedures set forth in the appropriate sections in Parts I–IV of the Guidelines.

In order to ensure protection for proprietary data, any public notice regarding a request for an exemption or other approval which is designated by the institution as proprietary under Section VI–E–1 will be issued only after consultation with the institution as to the content of the notice.

VI–E. *Protection of Proprietary Data.* In general, the Freedom of Information Act requires Federal agencies to make their records available to the public upon request. However, this requirement does not apply to, among other things, "trade secrets and commercial and financial information obtained from a person and privileged or confidential." 18 U.S.C. 1905, in turn makes it a crime for an officer or employee of the United States or any Federal department or agency to publish, divulge, disclose, or make known "in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, [or processes . . . of any person, firm, partnership, corporation, or association." This provision applies to all employees of the Federal Government, including special Government employees. Members of the Recombinant DNA Advisory Committee are "special Government employees."

VI–E–1. In submitting information to NIH for purposes of complying voluntarily with the Guidelines, an institution may designate those items of information which the institution believes constitute trade secrets or privileged or confidential commercial or financial information.

VI–E–2. If NIH receives a request under the Freedom of Information Act for information so designated, NIH will promptly contact the institution to secure its views as to whether the information (or some portion) should be released.

VI–E–3. If the NIH decides to release this information (or some portion) in response to a Freedom of Information request or otherwise, the institution will be advised; and the actual release will not be made until the expiration of 15 days after the institution is so advised, except to the extent that earlier release, in the judgement of the Director, NIH, is necessary to protect against an imminent hazard to the public or the environment.

VI–E–4. *Presubmission Review.*

VI–E–4–a. Any institution not otherwise covered by the Guidelines, which is considering submission of data or information voluntarily to NIH, may request presubmission review of the records involved to determine whether, if the records are submitted, NIH will or will not make part or all of the records available upon request under the Freedom of Information Act.

VI–E–4–b. A request for presubmission review should be submitted to ORDA, along with the records involved. These records must be clearly marked as being the property of the institution, on loan to NIH solely for the purpose of making a determination under the Freedom of Information Act. ORDA will then seek a determination from the HHS Freedom of Information Officer, the responsible official under HHS regulations (45 CFR Part 5), as to whether the records involved (or some portion) are or are not available to members of the public under the Freedom of Information Act. Pending such a determination, the records will be kept separate from ORDA files, will be considered records of the institution and not ORDA, and will not be received as part of ORDA files. No copies will be made of the records.

VI–E–4–c. ORDA will inform the institution of the HHS Freedom of Information Officer's determination and follow the institution's instructions as to whether some or all of the records involved are to be returned to the institution or to become a part of ORDA files. If the institution instructs ORDA to return the records, no copies or summaries of the records will be made or retained by HHS, NIH, or ORDA.

VI–E–4–d. The HHS Freedom of Information Officer's determination will represent that official's judgement, as of the time of the determination, as to whether the records involved (or some portion) would be exempt from disclosure under the Freedom of Information Act, if at the time of the determination the records were in ORDA files and a request were received from them under the Act.

Appendix A.—Exemptions Under III–D–4

Section III–D–4 states that exempt from these Guidelines are "certain specified recombinant DNA molecules that consist entirely of DNA segments from different species that exchange DNA by known physiological processes, though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment. (See Section IV–C–1–b–(1)–(c).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix A."

Under Section III–D–4 of these Guidelines are recombinant DNA molecules that are: (1) Composed entirely of DNA segments from one or more of the organisms within a sublist and (2) to be propagated in any of the organisms within a sublist. (Classification of *Bergey's Manual of Determinative Bacteriology*, eighth edition. R. E. Buchanan and N. E. Gibbons, editors. Williams and Wilkins Company: Baltimore, 1974.)

Sublist A

1. Genus *Escherichia*
2. Genus *Shigella*
3. Genus *Salmonella* (including *Arizona*)
4. Genus *Enterobacter*
5. Genus *Citrobacter* (including *Levinea*)
6. Genus *Klebsiella*
7. Genus *Erwinia*
8. *Pseudomonas aeruginosa, Pseudomonas putida* and *Pseudomonas flourescens*
9. *Serratia marcescens*
10. *Yersinia enterocolitica*

Sublist B

1. *Bacillus subtilis*
2. *Bacillus licheniformis*
3. *Bacillus pumilus*
4. *Bacillus globigii*
5. *Bacillus niger*
6. *Bacillus nato*
7. *Bacillus amyloliquefaciens*
8. *Bacillus aterrimus*

Sublist C

1. *Streptomyces aureofaciens*
2. *Streptomyces rimosus*
3. *Streptomyces coelicolor*

Sublist D

1. *Streptomyces griseus*
2. *Streptomyces cyaneus*
3. *Streptomyces venezuelae*

Sublist E

One way transfer of *Streptococcus mutans* or *Streptococcus lactis* DNA into *Streptococcus sanguis.*

Sublist F

1. *Streptococcus sanguis*
2. *Streptococcus pneumoniae*
3. *Streptococcus faecalis*
4. *Streptococcus pyogenes*

Appendix B.—Classification of Microorganisms on the Basis of Hazard

Appendix B–1. *Classification of Etiologic Agents.* [The original reference for this classification was the publication *"Classification of Etiological Agents on the Basis of Hazard,"* 4th edition, July 1974, U.S. Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333. For the purposes of these Guidelines, this list has been revised by the NIH.]

Appendix B–I–A. *Class 1 Agents.* All bacterial, parasitic, fungal, viral, rickettsial, and chlamydial agents not included in higher classes.

Appendix B–I–B. *Class 2 Agents.*

Appendix B–I–B–1. *Bacterial Agents.*

Acinetobacter calcoaceticus
Actinobacillus—all species
Aeromonas hydrophila
Arizona hinshawii—all serotypes
Bacillus anthracis
Bordetella—all species
Borrelia recurrentis, B. vincenti
Campylobacter fetus
Campylobacter jejuni
Chlamydia psittaci
Chlamydia trachomatis
Clostridium botulinum, Cl. chauvoei, Cl. haemolyticum, Cl. histolyticum, Cl. novyi, Cl. septicum, Cl. tetani
Corynebacterium diphtheriae, C. equi, C. haemolyticum, C. pseudotuberculosis, C. pyogenes, C. renale
Edwardsiella tarda
Erysipelothrix insidiosa
Escherichia coli—all enteropathogenic, enterotoxigenic, enteroinvasive and strains bearing Kl antigen
Haemophilus ducreyi, H. influenzae
Klebsiella—all species and all serotypes
Legionella pneumophila
Leptospira interrogans—all serotypes
Listeria—all species
Moraxella—all species
Mycobacteria—all species except those listed in Class 3
Mycoplasma—all species except *Mycoplasma mycoides* and *Mycoplasma agalactiae*, which are in Class 5
Neisseria gonorrhoeae, N. meningitidis
Pasteurella—all species except those listed in Class 3
Salmonella—all species and all serotypes
Shigella—all species and all serotypes
Sphaerophorus necrophorus
Staphylococcus aureus
Streptobacillus moniliformis
Streptococcus pneumoniae
Streptococcus pyogenes
Treponema carateum, T. pallidum, and *T. pertenue*
Vibrio cholerae
Vibrio parahemolyticus
Yersinia enterocolitica

Appendix B–I–B–2. *Fungal Agents.*

Actinomycetes (including *Nocardia* species and *Actinomyces* species and *Arachnia propionica*)
Blastomyces dermatitidis
Cryptococcus neoformans
Paracoccidioides braziliensis

Appendix B–I–B–3. *Parasitic Agents.*

Endamoeba histolytica
Leishmania sp.
Naegleria gruberi
Schistosoma mansoni
Toxoplasma gondii
Toxocara canis
Trichinella spiralis
Trypanosoma cruzi

Appendix B–I–B–4. *Viral, Rickettsial, and Chlamydial Agents.*

Adenoviruses—human—all types
Cache Valley virus
Coxsackie A and B viruses
Cytomegaloviruses
Echoviruses—all types
Encephalomyocarditis virus (EMC)
Flanders virus
Hart Park virus
Hepatitis-associated antigen material
Herpes viruses—except *Herpesvirus simiae (Monkey B virus)* which is in Class 4
Corona viruses
Influenza viruses—all types except A/PR8/34, which is in Class 1
Langat virus
Lymphogranuloma venereum agent
Measles virus
Mumps virus
Parainfluenza virus—all types except Parainfluenza virus 3, SF4 strain, which is in Class 1
Polioviruses—all types, wild and attenuated
Poxviruses—all types except *Alastrim, Small-pox,* and *Whitepox*, which are Class 5 and *Monkey pox*, which depending on experiments, is in Class 3 or Class 4
Rabies virus—all strains except *Rabies street virus*, which should be classified in Class 3
Reoviruses—all types
Respiratory syncytial virus
Rhinoviruses—all types
Rubella virus
Simian viruses—all types except *Herpesvirus simiae (Monkey B virus)* and *Marburg virus*, which are in Class 4
Sindbis virus
Tensaw virus
Turlock virus
Vaccinia virus
Varicella virus
Vesicular stomatitis virus [3]
Vole rickettsia
Yellow fever virus, 17D vaccine strain

Appendix B–I–C. *Class 3 Agents.*

Appendix B–I–C–1. *Bacterial Agents.*

Bartonella—all species
Brucella—all species
Francisella tularensis
Mycobacterium avium, M. bovis, M. tuberculosis
Pasteurella multocide type *B* ("buffalo" and other foreign virulent strains) [3]
Pseudomonas mallei [3]
Pseudomonas pseudomallei [3]
Yersinia pestis

Appendix B–I–C–2. *Fungal Agents.*

Coccidioides immitis
Histoplasma capsulatum
Histoplasma capsulatum var. *duboisii*

Appendix B–I–C–3. *Parasitic Agents.*

None.

Appendix B–I–C–4. *Viral, Rickettsial, and Chlamydial Agents.*

Monkey pox, when used *in vitro* [4]
Arboviruses—all strains except those in Class 2 and 4 (*Arboviruses* indigenous to the United States are in Class 3, except those listed in Class 2.
West Nile and *Semliki Forest* viruses may be classified up or down, depending on the conditions of use and geographical location of the laboratory.)
Dengue virus, when used for transmission or animal inoculation experiments
Lymphocytic choriomeningitis virus (LCM)
Rabies street virus
Rickettsia—all species except *Vole rickettsia* when used for transmission or animal inoculation experiments
Yellow fever virus—wild, when used *in vitro*

Appendix B–I–D. *Class 4 Agents.*

Appendix B–I–D–1. *Bacterial Agents.*

None

Appendix B–I–D–2. *Fungal Agents.*

None

Appendix B–I–D–3. *Parasitic Agents.*

None

Appendix B–I–D–4. *Viral, Rickettsial, and Chlamydial Agents.*

Ebola fever virus
Monkey pox, when used for transmission or animal inoculation experiments [4]
Hemorrhagic fever agents, including *Crimean, hemorrhagic fever, (Congo), Junin,* and *Machupo* viruses, and others as yet undefined
Herpesvirus simiae (Monkey B virus)
Lassa virus
Marburg virus
Tick-borne encephalitis virus complex, including *Russian spring-summer encephalitis, Kyasanur, forest disease, Omsk hemorrhagic fever,* and *Central European encephalitis viruses*
Venezuelan equine encephalitis virus, epidemic strains, when used for transmission or animal inoculation experiments
Yellow fever virus—wild, when used for transmission or animal inoculation experiments

Appendix B–II. *Classification of Oncogenic Viruses on the Basis of Potential Hazard [5].*

Appendix B–II–A. *Low-Risk Oncogenic Viruses.*

Rous Sarcoma
SV–40
CELO
Ad7–SV40
Polyoma
Bovine papilloma
Rat mammary tumor
Avian Leukosis
Murine Leukemia
Murine Sarcoma
Mouse mammary tumor
Rat Leukemia

Hamster Leukemia
Bovine Leukemia
Dog Sarcoma
Mason-Pfizer Monkey Virus
Marek's
Guinea Pig Herpes
Lucke (Frog)
Adenovirus
Shope Fibroma
Shope Papilloma

Appendix B–II–B. *Moderate-Risk Oncogenic Viruses.*

Ad2–SV40
FeLV
HV Saimiri
EBV
SSV–1
GaLV
HV ateles
Yaba
FeSV

Appendix B–III. *Class 5 Agents.*

Appendix B–III–A. *Animal Disease Organisms Which Are Forbidden Entry into the United States by Law.*

Foot and mouth disease virus

Appendix B–III–B. *Animal Disease Organisms and Vectors Which Are Forbidden Entry into the United States by USDA Policy.*

African horse sickness virus
African swine fever virus
Besnoitia besnoiti
Borna disease virus
Bovine infectious petechial fever
Camel pox virus
Ephemeral fever virus
Fowl plague virus
Goat pox virus
Hog cholera virus
Louping ill virus
Lumpy skin disease virus
Nairobi sheep disease virus
Newcastle disease virus (Asiatic strains)
Mycoplasma mycoides (contagious bovine pleuropneumonia)
Mycoplasma agalactiae (contagious agalactia of sheep)
Rickettsia ruminatium (heart water)
Rift valley fever virus
Rhinderpest virus
Sheep pox virus
Swine vesicular disease virus
Teschen disease virus
Trypanosoma vivax (Nagana)
Trypanosoma evansi
Theileria parva (East Coast fever)
Theileria annulata
Theileria lawrencei
Theileria bovis
Theileria hirci
Vesicular exanthema virus
Wesselsbron disease virus
Zyonema

Appendix B–III–C. *Organisms Which May Not Be Studied in the United States Except At Specified Facilities.*

Small pox [4]
Alastrim [4]
White pox [4]

Appendix B–IV. Footnotes and References of Appendix B.

1. The original reference for this classification was the publication *Classification of Etiologic Agents on the Basis of Hazard*, 4th edition, July 1974, U.S. Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333. For the purposes of these Guidelines, this list has been revised by the NIH.

2. Since the publication of the classification in 1974 [1], the *Actinomycetes* have been reclassified as bacterial rather than fungal agents.

3. A USDA permit, required for import and interstate transport of pathogens, may be obtained from the Animal and Plant Health Inspection Service, USDA, Federal Building, Hyattsville, MD 20782.

4. All activities, including storage of variola and whitepox are restricted to the single national facility [World Health Organization (WHO) Collaborating Center for Smallpox Research, Center for Disease Control, in Atlanta].

5. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (October 1974). U.S. Department of Health, Education, and Welfare Publication No. (NIH) 75–790.

6. U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

Appendix C.—Exemptions Under III–D–5

Section III–D–5 states that exempt from these Guidelines are "Other classes of recombinant DNA molecules, if the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment, finds that they do not present a significant risk to health or the environment. (See Section IV–C–1–b–(1)–(c).) Certain classes are exempt as of publication of these Revised Guidelines."

The following classes of experiments are exempt under Section III–D–5 of the Guidelines: Appendix C–I. *Recombinant DNAs in Tissue Culture.* Recombinant DNA molecules derived entirely from non-viral components (that is, no component is derived from a eukaryotic virus), that are propagated and maintained in cells in tissue culture are exempt from these Guidelines with the exceptions listed below.

Exceptions

Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

Experiments involving DNA from Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents.

Experiments involving the deliberate introduction of genes coding for the biosynthesis of molecules toxic for vertebrates. (See Appendix F.)

Appendix C–II. *Experiments Involving E. coli K–12 Host-Vector Systems.* Experiments which use *E. coli* K–12 host-vector systems, with the exception of those experiments listed below, are exempt from these Guidelines provided that (a) the *E. coli* host shall not contain conjugation proficient plasmids or generalized transducing phages, and (b) lambda or lambdoid or Ff bacteriophages or nonconjugative plasmids [2] shall be used as vectors. However, experiments involving the insertion into *E. coli* K–12 of DNA from prokaryotes that exchange genetic information [3] with *E. coli* may be performed with any *E. coli* K–12 vector (e.g., conjugative plasmid). When a nonconjugative vector is used, the *E. coli* K–12 host may contain conjugation-proficient plasmids either autonomous or integrated, or generalized transducing phages.

For these exempt experiments, P1 physical containment conditions are recommended.

Exceptions

Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

Experiments involving DNA from Class 3, 4, or 5 organisms [1] or from cells known to be infected with these agents may be conducted under containment conditions specified in Section III–B–2 with prior IBC review and approval.

Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval. (See Section III–B–5.)

Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates. (See Appendix F.)

Appendix C–III. *Experiments Involving Saccharomyces cerevisiae Host-Vector Systems.* Experiments which use *Saccharomyces cerevisiae* host-vector systems, with the exception of experiments listed below, are exempt from these Guidelines provided that laboratory strains are used.

For these exempt experiments, P1 physical containment conditions are recommended.

Exceptions

Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

Experiments involving Class 3, 4 or 5 organisms [1] or cells known to be infected with these agents may be conducted under containment

conditions specified in Section III–B–2 with prior IBC review and approval.

Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval. (See Section III–B–5.)

Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates. (See Appendix F.)

Appendix C–IV. *Experiments Involving Bacillus subtilis Host-Vector Systems.* Any asporogenic *Bacillus subtilis* strain which does not revert to a sporeformer with a frequency greater than 10^{-7} can be used for cloning DNA, with the exception of those experiments listed below. Indigenous *Bacillus* plasmids and phages, whose host-range does not include *Bacillus cereus* or *Bacillus anthracis*, may be used as vectors.

For these exempt experiments P1 physical containment conditions are recommended.

Exceptions

Experiments described in Section III–A which require specific RAC review and approval before initiation of the experiment.

Experiments involving Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents may be conducted under containment conditions specified by Section III–B–2 with prior IBC review and approval.

Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval. (See Section III–B–5.)

Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates. (See Appendix F.)

Appendix C–V.—Footnotes and References of Appendix C.

1. The original reference to organisms as Class 1, 2, 3, 4, or 5 refers to the classification in the publication *Classification of Etiologic Agents on the Basis of Hazard*, 4th Edition, July 1974; U.S. Department of Health, Education, and Welfare, Public Health Service, Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

The Director, NIH, with advice of the Recombinant DNA Advisory Committee, may revise the classification for the purposes of these Guidelines (see Section IV–C–1–b–(2)–(d)). The revised list of organisms in each class is reprinted in Appendix B to these Guidelines.

2. A subset of non-conjugative plasmid vectors are also poorly mobilizable (e.g., pBR322, pBR313). Where practical, these vectors should be employed.

3. Defined as observable under optimal laboratory conditions by transformation, transduction, phage infection, and/or conjugation with transfer of phage, plasmid, and/or chromosomal genetic information. Note that ths definition of exchange may be less stringent than that applied to exempt organisms under Section III–D–4.

Appendix D.—Actions Taken Under the Guidelines

As noted in the subsection of Section IV–C–1–b–(1), the Director, NIH, may take certain actions with regard to the Guidelines after the issues have been considered by the RAC.

Some of the actions taken to date include the following: Appendix D–I. Permission is granted to clone Foot-and-Mouth Disease Virus in the EK1 host-vector system consisting of *E. coli* K–12 and the vector pBR322, all work to be done at the Plum Island Animal Disease Center.

Appendix D–II. Certain specified clones derived from segments of the Foot-and-Mouth Disease Virus may be transferred from Plum Island Animal Disease Center to the facilities of Genentech, Inc., of South San Francisco, California. Further development of the clones at Genetech has been approved under P1 + EK1 conditions.

Appendix D–III. The Rd strain of *Hemophilus influenzae* can be used as a host for the propagation of the cloned Tn 10 tet R gene derived from *E. coli* K–12 employing the non-conjugative *Hemophilus* plasmid, pRSF0885, under P1 conditions.

Appendix D–IV. Permission is granted to clone certain subgenomic segments of Foot-and-Mouth Disease Virus in HV1 *Bacillus subtilis* and *Saccharomyces cerevisiae* host-vector systems under P1 conditions at Genetech, Inc., South San Francisco, California.

Appendix D–V. Permission is granted to Dr. Ronald Davis of Stanford University to field test corn plants modified by recombinant DNA techniques under specified containment conditions.

Appendix D–VI. Permission is granted to clone in *E. coli* K–12, under P1 physical containment conditions, subgenomic segments of Rift Valley Fever virus subject to conditions which have been set forth by the RAC.

Appendix D–VII. Attenuated laboratory strains of *salmonella typhimurium* may be used under P1 physical containment conditions to screen for the *Saccharmoyces cerevisiae* pseudouridine synthetase gene. The plasmid YEp13 will be employed as the vector.

Appendix D–VIII. Permission is granted to transfer certain clones of subgenomic segments of Foot-and-Mouth Disease virus from Plum Island Animal Disease Center to the laboratories of Molecular Genetics, Inc., Minnetonka, Minnesota, and to work with these clones under P1 containment conditions. Approval is contingent upon review of data on infectivity testing of the clones by a working group of the RAC.

Appendix E.— Certified Host-Vector Systems

While many experiments using *E. coli* K–12, *Saccharomyces serevisiae* and *Bacillus subtilis* are currently exempt from the Guidelines under Exemption III–D–5, some derivatives of these host-vector systems were previously classified as HV1 or HV2. A listing of those systems follows.

HV1. The following plasmids are accepted as the vector components of certified *B. subtilis* HV1 systems: pUB110, pC194, pS194, pSA2100, pE194, pT127, pUB112, pC221, pC223, and pAB124. *B. subtilis* strains RUB 331 and BGSC 1S53 have been certified as the host component of HV1 systems based on these plasmids.

HV2. The asporogenic mutant derivative of *Bacillus subtilis*, ASB 298, with the following plasmids as the vector component: pUB110, pC194, pS194, pSA2100, pE194, pT127, pUB112, pC221, pC223, and pAB124.

HV2. The following sterile strains of *Saccharomyces cerevisiae*, all of which have the ste–VC9 mutation, SHY1, SHY2, SHY3, and SHY4. The following plasmids are certified for use: YIp1, YEp2, YEp4, YIp5, YEp6, YRp7, YEp20, YEp21, YEp24, YIp25, YIp26, YIp27, YIp28, YIp29, YIp30, YIp31, YIp32, and YIp33.

EK2 Plasmid Systems. The *E. coli* K–12 strain chi-1776. The following plasmids are certified for use: pSC101, pMB9, pBR313, pBR322, pDH24, pBR325, pBR327, pGL101, pHB1. The following *E. coli/S. cerevisiae* hybrid plasmids are certified as EK2 vectors when used in *E. coli* chi-1776 or in the sterile yeast strains, SHY1, SHY2, SHY3, and SHY4: YIp1, YEp2, YEp4, YIp5, YEp6, YRp7, YEp20, YEp21, YEp24, YIp25, YIp26, YIp27, YIp28, YIp29, YIp30, YIp31, YIp32, YIp33.

EK2 Bacteriophage Systems. The following are certified EK2 systems based on bacteriophage lambda:

Vector and Host

λgt*WES*.λB′—DP50*sup*F
λgt*WES*.λB*—DP50*sup*F
λgtZJ*Vir*.λB′—*E. coli* K–12
λgtALO.λB—DP50*sup*F
Charon 3A—DP50 or DP50*sup*F
Charon 4A—DP50 or DP50*sup*F
Charon 16A—DP50 or DP50*sup*F
Charon 21A—DP50*sup*F
Charon 23A—DP50 or DP50*sup*F
Charon 24A—DP50 or DP50*sup*F

E. coli K-12 strains chi-2447 and chi-2281 are certified for use with lambda vectors that are certified for use with strain DP50 or DP50supF provided that the su-strain not be used as a propagation host.

Additional certified host-vector systems.

HV1—The following specified strains of *Neurospora crassa* which have been modified to prevent aerial dispersion:

In1 (inositolless) strains 37102, 37401, 46316, 64001, and 89601.

Csp-1 strain UCLA37 and csp-2 strains FS 590, UCLA101 (these are conidial separation mutants).

Eas strain UCLA191 (an "easily wettable" mutant).

HV1—The following *Streptomyces* species: *Streptomyces coelicolor, S. lividans, S. parvulus,* and *S. griseus.* The following are accepted as vector components of certified *Streptomyces* HV1 systems: *Streptomyces* plasmids SCP2, SLP1.2, pIJ101, actinophage phi C31, and their derivatives.

HV1—*Pseudomonas putida* strain KT2440 with plasmid vectors pKT262, pKT263, and pKT264.

Appendix F.—Containment Conditions for Cloning of Genes Coding for the Biosynthesis of Molecules Toxic for Vertebrates

Appendix F-I. *General Information.* Appendix F specifies the containment to be used for the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates. Cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} of less than 100 nanograms per kilogram body weight (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella dysenteriae* neurotoxin) is prohibited. No specific restrictions shall apply to the cloning of genes if the protein specified by the gene has an LD_{50} of 100 micrograms or more per kilogram of body weight. Experiments involving genes coding for toxic molecules with an LD_{50} of 100 micrograms or less per kilogram body weight shall be registered with ORDA prior to initiating the experiments. A list of toxic molecules classified as to LD_{50} is available from ORDA. Testing procedures for determining toxicity of toxic molecules not on the list are available from ORDA. The results of such tests shall be forwarded to ORDA, which will consult with an *ad hoc* working group on toxic molecules prior to inclusion of the molecule on the list. (See Section IV-C-1-b-(2)-(e).)

Appendix F-II. *Containment Conditions for Cloning of Toxic Molecule Genes in E. coli K-12.*

Appendix F-II-A. Cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} in the range of 100 nanograms to 1000 nanograms per kilogram body weight (e.g., abrin, *Clostridium perfringens* epsilon toxin) may proceed under P2 + EK2 or P3 + EK1 containment conditions.

Appendix F-II-B. Cloning of genes for the biosynthesis of molecules toxic for vertebrates with an LD_{50} in the range of 1 microgram to 100 micrograms per kilogram body weight may proceed under P1 + EK1 containment conditions (e.g., *Staphylococcus aureus* alpha toxin, *Staphylococcus aureus* beta toxin, ricin, *Pseudomonas aeruginosa* exotoxin A, *Bordatella pertussis* toxin, the lethal factor of *Bacillus anthracis,* the *Pasteurella pestis* murine toxins, the oxygen-labile hemolysins such as streptolysin O, and certain neurotoxins present in snake venoms and other venoms).

Appendix F-II-C. Some enterotoxins are substantially more toxic when administered enterally than parenterally. The following enterotoxins shall be subject to P1 + EK1 containment conditions: cholera toxin, the heat labile toxin of *E. coli, Klebsiella,* and other related proteins that may be identified by neutralization with an antiserum monospecific for cholera toxin, and the heat stable toxins of *E. coli* and of *Yersinia enterocolitica.*

Appendix F-III. *Containment Conditions for Cloning of Toxic Molecule Genes in Organisms Other than E. coli K-12.* Requests involving the cloning of genes coding for modecules toxic for vertebrates in host-vector systems other than *E. coli* K-12 will be evaluated by ORDA, which will consult with the *ad hoc* working group on toxic molecules. (See Section IV-C-1-b-(3)-(f).)

Appendix F-IV. *Specific Approvals.*

Appendix F-IV-A. Permission is granted to clone the Exotoxin A gene of *Pseudomonas aeruginosa* under P1 conditions in *Pseudomonas aeruginosa.*

Appendix F-IV-B. The pyrogenic endotoxin type A (Tox A) gene of *Staphylococcus aureus* may be cloned in an HV2 *Bacillus subtilis* host-vector system under P3 containment conditions.

Appendix F-IV-C. Permission is granted to clone in *E. coli* K-12, in high containment Building 550 at the Fredrick Cancer Research Facility, restriction fragments of *Corynephage Beta* carrying the structural gene for diphtheria toxin. Laboratory practices and containment equipment are to be specified by the IBC.

Appendix F-IV-D. The genes coding for the *Staphylococcus aureus* determinants, A, B, and F, which may be implicated in toxic shock syndrome, may be cloned in *E. coli* K-12 under P2 + EK1 conditions. The *Staphylococcus aureus* strain used as the donor is to be alpha toxin minus. It is suggested that, if possible, the donor *Staphylococcus aureus* strain should lack other toxins with LD_{50}s in the range of one microgram per kilogram body weight, such as the exfoliative toxin.

Appendix F-IV-E. Fragments F-1, F-2, and F-3 of the diphtheria toxin gene (tox) may be cloned in *E. coli* K-12 under P1 + EK1 containment conditions. Fragment F-1 and fragment F-2 both contain (i) some or all of the transcriptional control elements of *tox,* (ii) the signal peptide, and (iii) fragment A (the center responsible for ADP-ribosylation of elongation factor 2). Fragment F-3 codes for most of the non-toxic fragment B of the toxin, and contains no sequences coding for any portion of the enzymatically-active fragment A moiety.

Appendix F-IV-F. The gene(s) coding for a toxin (designated LT-like) isolated from *E. coli* which is similar to the *E. coli* heat labile enterotoxin (LT) with respect to its activities and mode of action, but is not neutralized by antibodies against cholera enterotoxin or against LT from human or porcine *E. coli* strains and sequences homologous to the *E. coli* LT-like toxin gene may be cloned under P1 + EK1 conditions.

Appendix F-IV-G. Genes from *Vibrio fluvialis, Vibrio mimicus* and non O-1 *Vibrio cholerae,* specifying virulence factors for animals, may be cloned under P1 + EK1 conditions. The virulence factors to be cloned will be selected by testing fluid induction in suckling mice and Y-1 mouse adrenal cells.

Appendix G.—Physical Containment

Appendix G-I. *Standard Practices and Training.* The first principle of containment is a strict adherence to good microbiological practices [1-10]. Consequently, all personnel directly or indirectly involved in experiments on recombinant DNAs must receive adequate instruction. (See Sections IV-B-1-e and IV-B-5-d.) This shall, as a minimum, include instructions in aseptic techniques and in the biology of the organisms used in the experiments, so that the potential biohazards can be understood and appreciated.

Any research group working with agents with a known or potential biohazard shall have an emergency plan which describes the procedures to be

followed if an accident contaminates personnel or the environment. The principal investigator must ensure that everyone in the laboratory is familiar with both the potential hazards of the work and the emergency plan. (See Sections IV–B–3–d and IV–B–5–e.) If a research group is working with a known pathogen where there is an effective vaccine it should be made available to all workers. Where serological monitoring is clearly appropriate it shall be provided. (See Section IV–B–1–f.)

The "Laboratory Safety Monograph", available from ORDA, describes practices, equipment, and facilities in detail.

Appendix G–II. *Physical Containment Levels.* The objective of physical containment is to confine organisms containing recombinant DNA molecules, and thus to reduce the potential for exposure of the laboratory worker, persons outside of the laboratory, and the environment to organisms containing recombinant DNA molecules. Physical containment is achieved through the use of laboratory practices, containment equipment, and special laboratory design. Emphasis is placed on primary means of physical containment which are provided by laboratory practices and containment equipment. Special laboratory design provides a secondary means of protection against the accidental release of organisms outside the laboratory or to the environment. Special laboratory design is used primarily in facilities in which experiments of moderate to high potential hazards are performed.

Combinations of laboratory practices, containment equipment, and special laboratory design can be made to achieve different levels of physical containment. Four levels of physical containment, which are designated as P1, P2, P3, and P4, are described. It should be emphasized that the descriptions and assignments of physical containment detailed below are based on existing approaches to containment of pathogenic organisms. For example, the "Classification of Etiologic Agents on the Basis of Hazard," [2] prepared by the Centers for Disease Control, describes four general levels which roughly correspond to our descriptions for P1, P2, P3, and P4; and the National Cancer Institute describes three levels for research on oncogenic viruses which roughly correspond to our P2, P3, and P4 levels. [3]

It is recognized that several different combinations of laboratory practices, containment equipment, and special laboratory design may be appropriate for containment of specific research activities. The Guidelines, therefore, allow alternative selections of primary containment equipment within facilities that have been designed to provide P3 and P4 levels of physical containment. The selection of alternative methods of primary containment is dependent, however, on the level of biological containment provided by the host-vector system used in the experiment. Consideration will also be given by the Director, NIH, with the advice of the Recombinant DNA Advisory Committee to other combinations which achieve an equivalent level of containment. (See Section IV–C–1–b–(2)–(b).)

Appendix G–II–A. *P1 Level.*

Appendix G–II–A–1. *Laboratory Practices.*

Appendix G–II–A–1–a. Laboratory doors shall be kept closed while experiments are in progress.

Appendix G–II–A–1–b. Work surfaces shall be decontaminated daily, and immediately following spills of organisms containing recombinant DNA molecules.

Appendix G–II–A–1–c. All biological wastes shall be decontaminated before disposal. Other contaminated materials, such as glassware, animal cages, and laboratory equipment, shall be decontaminated before washing, reuse, or disposal.

Appendix G–II–A–1–d. Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

Appendix G–II–A–1–e. Eating, drinking, smoking, and storage of foods are not permitted in the laboratory area in which recombinant DNA materials are handled.

Appendix G–II–A–1–f. Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

Appendix G–II–A–1–g. Care shall be taken in the conduct of all procedures to minimize the creation of aerosols.

Appendix G–II–A–1–h. Contaminated materials that are to be decontaminated at a site away from the laboratory shall be placed in a durable leakproof container, which is closed before removal from the laboratory.

Appendix G–II–A–1–i. An insect and rodent control program shall be instituted.

Appendix G–II–A–1–j. The use of laboratory gowns, coats, or uniforms is discretionary with the laboratory supervisor.

Appendix G–II–A–1–k. Use of the hypodermic needle and syringe shall be avoided when alternative methods are available.

Appendix G–II–A–1–l. The laboratory shall be kept neat and clean.

Appendix G–II–A–2. *Containment Equipment.* Special containment equipment is not required at the P1 level.

Appendix G–II–A–3. *Special Laboratory Design.* Special laboratory design is not required at the P1 level.

Appendix G–II–B. *P2 Level.*

Appendix G–II–B–1. *Laboratory Practices.*

Appendix G–II–B–1–a. Laboratory doors shall be kept closed while experiments are in progress.

Appendix G–II–B–1–b. Work surfaces shall be decontaminated daily, and immediately following spills of organisms containing recombinant DNA molecules.

Appendix G–II–B–1–c. All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials such as glassware, animal cages, laboratory equipment, and radioactive wastes shall be decontaminated by a means demonstrated to be effective before washing, reuse, or disposal.

Appendix G–II–B–1–d. Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

Appendix G–II–B–1–e. Eating, drinking, smoking, and storage of food are not permitted in the laboratory area in which recombinant DNA materials are handled.

Appendix G–II–B–1–f. Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

Appendix G–II–B–1–g. Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as inserting a hot inoculating loop or needle into a culture, flaming an inoculation loop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

Appendix G–II–B–1–h. Contaminated materials that are to be steam sterilized (autoclaved) or decontaminated at a site away from the laboratory shall be placed in a durable leak-proof container, which is closed before removal from the laboratory.

Appendix G–II–B–1–i. Only persons who have been advised of the nature of the research being conducted shall enter the laboratory.

Appendix G–II–B–1–j. The universal biohazard sign shall be posted on all laboratory access doors when experiments requiring P2 containment are in progress. Freezers and refrigerators or other units used to store organisms containing recombinant DNA molecules shall also be posted with the universal biohazard sign.

Appendix G–II–B–1–k. An insect and rodent control program shall be instituted.

Appendix G–II–B–1–l. The use of laboratory gowns, coats, or uniforms is required. Laboratory clothing shall not be worn to the lunch room or outside of the building in which the laboratory is located.

Appendix G–II–B–1–m. Animals not related to the experiment shall not be permitted in the laboratory.

Appendix G–II–B–1–n. Use of the hypodermic needle and syringe shall be avoided when alternative methods are available.

Appendix G–II–B–1–o. The laboratory shall be kept neat and clean.

Appendix G–II–B–1–p. Experiments of lesser biohazard potential can be carried out concurrently in carefully demarcated areas of the same laboratory.

Appendix G–II–B–2. *Containment Equipment.* Biological safety cabinets [12] shall be used to contain aerosol-producing equipment, such as blenders, lyophilizers, sonicators, and centrifuges, when used to process organisms containing recombinant DNA molecules, except where equipment design provides for containment of the potential aerosol. For example, a centrifuge may be operated in the open if a sealed head or safety centrifuge cups are used.

Appendix G–II–B–3. *Special Laboratory Design.* An autoclave for sterilization of wastes and contaminated materials shall be available in the same building in which organisms containing recombinant DNA molecules are used.

Appendix G–II–C. *P3 Level.*

Appendix G–II–C–1. *Laboratory Practices.*

Appendix G–II–C–1–a. Laboratory doors shall be kept closed while experiments are in progress.

Appendix G–II–C–1–b. Work surfaces shall be decontaminated following the completion of the experimental activity, and immediately following spills of organisms containing recombinant DNA molecules.

Appendix G–II–C–1–c. All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials, such as glassware, animal cages, laboratory equipment, and radioactive wastes, shall be decontaminated by a method demonstrated to be effective before washing, reuse, or disposal.

Appendix G–II–C–1–d. Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

Appendix G–II–C–1–e. Eating, drinking, smoking, and storage of food are not permitted in the laboratory area in which recombiant DNA materials are handled.

Appendix G–II–C–1–f. Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

Appendix G–II–C–1–g. Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as inserting a hot inoculating loop or needle into a culture, flaming an inoculation loop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

Appendix G–II–C–1–h. Contaminated materials that are to be steam-sterilized (autoclaved) or decontaminated at a site away from the laboratory shall be place in a durable leak-proof container, which is closed before removal from the laboratory.

Appendix G–II–C–1–i. Entry into the laboratory shall be through a controlled access area. Only persons who have been advised of the nature of the research being conducted shall enter the controlled access area. Only persons required on the basis of program or support needs shall be authorized to enter the laboratory. Such persons shall be advised of the nature of the research being conducted before entry, and shall comply with all required entry and exit procedures.

Appendix G–II–C–1–j. Persons under 16 years of age shall not enter the laboratory.

Appendix G–II–C–1–k. The universal biohazard sign shall be posted on the controlled access area door and on all laboratory doors when experiments requiring P3-level containment are in progress. Freezers and refrigerators or other units used to store organisms containing recombinant DNA molecules shall also be posted with the universal biohazard sign.

Appendix G–II–C–1–l. An insect and rodent control program shall be instituted.

Appendix G–II–C–1–m. Laboratory clothing that protects street clothing (e.g., long-sleeve solid-front or wrap-around gowns, no-button or slipover jackets) shall be worn in the laboratory. Front-button laboratory coats are unsuitable. Laboratory clothing shall not be worn outside the laboratory and shall be decontaminated before it is sent to the laundry.

Appendix G–II–C–1–n. Raincoats, overcoats, topcoats, coats, hats, caps, and such street outer-wear shall not be kept in the laboratory.

Appendix G–II–C–1–o. Gloves shall be worn when handling materials requiring P3 containment. They shall be removed aseptically immediately after the handling procedure and decontaminated.

Appendix G–II–C–1–p. Animals and plants not related to the experiment shall not be permitted in the laboratory.

Appendix G–II–C–1–q. Vacuum outlets shall be protected by filter and liquid disinfectant traps.

Appendix G–II–C–1–r. Use of hypodermic needle and syringe shall be avoided when alternative methods are available.

Appendix G–II–C–1–s. The laboratory shall be kept neat and clean.

Appendix G–II–C–1–t. If experiments involving other organisms which require lower levels of containment are to be conducted in the same laboratory concurrently with experiments requiring P3–level physical containment, they shall be conducted in accordance with all P3–level laboratory practices.

Appendix G–II–C–2. *Containment Equipment.*

Appendix G–II–C–2–a. Biological safety cabinets [12] shall be used for all equipment and manipulations that produce aerosols—e.g., pipetting, dilutions, transfer operations, plating, flaming, grinding, blending, drying, sonicating, shaking, centrifuging—where these procedures involve organisms containing recombinant DNA molecules, except where equipment design provides for containment of the potential aerosol.

Appendix G–II–C–2–b. Laboratory animals held in a P3 area shall be housed in partial-containment caging systems, such as Horsfall units [11], open cages placed in ventilated enclosures, solid-wall and -bottom cages covered by filter bonnets, or solid-wall and -bottom cages placed on holding racks equipped with ultraviolet radiation lamps and reflectors. (Note: Conventional caging systems may be used, provided that all personnel wear appropriate personal protective devices. These shall include, at a minimum, wrap-around gowns, head covers, gloves, shoe covers, and respirators. All personnel shall shower on exit from areas where these devices are required.)

Appendix G–II–C–2–c. *Alternative Selection of Containment Equipment.* Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified can be conducted in the P3 laboratory using containment equipment specified for the P2 level of physical containment. Experimental procedures involving a host-vector system that provides a one-step lower level of biological containment than that specified can be

conducted in the P3 laboratory using containment equipment specified for the P4 level of physical containment.

Alternative combinations of containment safeguards are shown in Table I.

TABLE I.—POSSIBLE COMBINATIONS OF CONTAINMENT SAFEGUARDS

Classification of experiment		Alternate combinations of physical and biological containment			
		Physical containment			
Physical containment	Biological [1] containment	Laboratory design specified for—	Laboratory practices specified for—	Containment equipment specified for	Biological containment
P3	HV2	P3	P3	P3	HV3.
P3	HV2	P3	P3	P4	HV1.
P3	HV1	P3	P3	P3	HV1.
P3	HV1	P3	P3	P2	HV2.

[1] See Appendix I for description of biological containment.

Appendix G–II–C–3. *Special Laboratory Design.*

Appendix G–II–C–3–a. The laboratory shall be separated by a controlled access area from areas that are open to unrestricted traffic flow. A controlled access area is an anteroom, a change room, an air lock or any other double-door arrangement that separates the laboratory from areas open to unrestricted traffic flow.

Appendix G–II–C–3–b. The surfaces of walls, floors, and ceilings shall be readily cleanable. Penetrations through these surfaces shall be sealed or capable of being sealed to facilitate space decontamination.

Appendix G–II–C–3–c. A foot-, elbow-, or automatically-operated hand-washing facility shall be provided near each primary laboratory exit area.

Appendix G–II–C–3–d. Windows in the laboratory shall be sealed.

Appendix G–II–C–3–e. An autoclave for sterilization of wastes and contaminated materials shall be available in the same building (and preferably within the controlled laboratory area) in which organisms containing recombinant DNA molecules are used.

Appendix G–II–C–3–f. The laboratory shall have a ventilation system that is capable of controlling air movement. The movement of air shall be from areas of lower contamination potential to areas of higher contamination potential (i.e., from the controlled access area to the laboratory area). If the ventilation system provides positive pressure supply air, the system shall operate in a manner that prevents the reversal of the direction of air movement or shall be equipped with an alarm that would be actuated in the event that reversal in the direction of air movement were to occur. The exhaust air from the laboratory area shall not be recirculated to other areas of the building unless the exhaust air is filtered by HEPA filters or equivalent. The exhaust air from the laboratory area can be discharged to the outdoors without filtration or other means for effectively reducing an accidental aerosol burden provided that it can be dispersed clear of occupied buildings and air intakes.

Appendix G–II–C–3–g. The treated exhaust-air from Class I and Class II biological safety cabinets [12] may be discharged either to the laboratory or to the outdoors. The treated exhaust-air from a Class III cabinet shall be discharged directly to the outdoors. If the treated exhaust-air from these cabinets is to be discharged to the outdoors through a building exhaust air system, it shall be connected to this system so as to avoid any interference with the air balance of the cabinet and the building ventilation system.

Appendix G–II–D. *P4 Level.*

Appendix G–II–D–1. *Laboratory Practices.*

Appendix G–II–D–1–a. Laboratory doors shall be kept closed while experiments are in progress.

Appendix G–II–D–1–b. Work surfaces shall be decontaminated following the completion of the experimental activity and immediately following spills of organisms containing recombinant DNA molecules.

Appendix G–II–D–1–c. All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials such as glassware, animal cages, laboratory equipment, and radioactive wastes shall be decontaminated by a method demonstrated to be effective before washing, reuse, or disposa.

Appendix G–II–D–1–d. Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

Appendix G–II–D–1–e. Eating, drinking, smoking, and storage of food are not permitted in the P4 facility.

Appendix G–II–D–1–f. Persons shall wash their hands after handling organisms containing recombiant DNA molecules and when they leave the laboratory.

Appendix G–II–D–1–g. Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as inserting a hot inoculating loop or needle into a culture, flaming an inoculation loop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

Appendix G–II–D–1–h. Biological materials to be removed from the P4 facility in a viable or intact state shall be transferred to a nonbreakable sealed container, which is them removed from the P4 facility through a passthrough disinfectant dunk tank or fumigation chamber.

Appendix G–II–D–1–i. No materials, except for biological materials that are to remain in a viable or intact state, shall be removed from the P4 facility unless they have been steam-sterilized (autoclaved) or decontaminated by a means demonstrated to be effective as they pass out of the P4 facility. All wastes and other materials as well as equipment not damaged by high temperature or steam shall be steam sterilized in the double-door autoclave of the P4 facility. Other materials which may be damaged by temperature or steam shall be removed from the P4 facility through a passthrough fumigation chamber.

Appendix G–II–D–1–j. Materials within the Class III cabinets shall be removed from the cabinet system only after being steam-sterilized in an attached double-door autoclave or after being contained in a nonbreakable sealed container, which is then passed through a disinfectant dunk tank or a fumigation chamber.

Appendix G–II–D–1–k. Only persons whose entry into the P4 facility is required to meet program or support needs shall be authorized to enter. Before entering, such persons shall be advised of the nature of the research being conducted and shall be instructed as to the appropriate safeguards to ensure their safety. They shall comply with instructions and all other required procedures.

Appendix G–II–D–1–l. Persons under 18 years of age shall not enter the P4 facility.

Appendix G–II–D–1–m. Personnel shall enter into and exit from the P4 facility only through the clothing change and shower rooms. Personnel shall shower at each egress from the P4 facility. Air locks shall not be used for personnel entry or exit except for emergencies.

Appendix G–II–D–1–n. Street clothing shall be removed in the outer side of the clothing-change area and kept there. Complete laboratory clothing, including undergarments, head cover, shoes, and either pants and shirts or jumpsuits, shall be used by all persons who enter the P4 facility. Upon exit, personnel shall store this clothing in lockers provided for this purpose or discard it into collection hampers before entering the shower area.

Appendix G–II–D–1–o. The universal biohazard sign is required on the P4 facility access doors and on all interior doors to individual laboratory rooms where experiments are conducted. The sign shall also be posted on freezers, refrigerators, or other units used to store organisms containing recombinant DNA molecules.

Appendix G–II–D–1–p. An insect and rodent control program shall be instituted.

Appendix G–II–D–1–q. Animals and plants not related to the experiment shall not be permitted in the laboratory in which the experiment is being conducted.

Appendix G–II–D–1–r. Vacuum outlets shall be protected by filter and liquid disinfectant traps.

Appendix G–II–D–1–s. Use of the hypodermic needle and syringe shall be avoided when alternate methods are available.

Appendix G–II–D–1–t. The laboratory shall be kept neat and clean.

Appendix G–II–D–1–u. If experiments involving other organisms which require lower levels of containment are to be conducted in the P4 facility concurrently with experiments requiring P4-level containment, they shall be conducted in accordance with all P4-level laboratory practices specified in this section.

Appendix G–II–D–2. *Containment Equipment.*

Appendix G–II–D–2–a. Experimental procedures involving organisms that require P-level physical containment shall be conducted either in (i) a Class III cabinet system or in (ii) Class I or Class II cabinets that are located in a specially designed area in which all personnel are required to wear one-piece positive-pressure isolation suits.

Appendix G–II–D–2–b. Laboratory animals involved in experiments requiring P4-level physical containment shall be housed either in cages contained in Class III cabinets or in partial containment caging systems (such as Horsfall units [11], open cages placed in ventilated enclosures, or solid-wall and -bottom cages covered by filter bonnets, or solid-wall and -bottom cages placed on holding racks equipped with ultraviolet irradiation lamps and reflectors) that are located in a specially designed area in which all personnel are required to wear one-piece positive-pressure suits.

Appendix G–II–D–2–c. *Alternative Selection of Containment Equipment.* Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified can be conducted in the P4 facility using containment equipment requirements specified for the P3 level of physical containment. Alternative combinations of containment safeguards are shown in Table II.

TABLE II.—POSSIBLE COMBINATIONS OF CONTAINMENT SAFEGUARDS

Classification of experiment		Alternative combinations of physical and biological containment			
		Physical containment			Biological containment
Physical containment	Biological [1] containment	Laboratory design specified for—	Laboratory practices specified for—	Containment equipment specified for—	
P4	HV1	P4	P4	P4	HV1.
P4	HV1	P4	P4 [2]	P3	HV2.

[1] See Appendix I for description of biological containment.
[2] In this case gloves shall be worn, in addition to the clothing requirements specified in Appendix G–II–D–1–n.

Appendix G–II–D–3. *Special Laboratory Design.*

Appendix G–II–D–3–a. The laboratory shall be located in a restricted-access facility which is either a separate building or a clearly demarcated and isolated zone within a building. Clothing-change areas and shower rooms shall be provided for personnel entry and egress. These rooms shall be arranged so that personnel leave through the shower area to the change room. A double-door ventilated vestibule or ultraviolet air lock shall be provided for passage of materials, supplies, and equipment which are not brought into the P4 facility through the change room area.

Appendix G–II–D–3–b. Walls, floors, and ceilings of the P4 facility are constructed to form an internal shell which readily allows vapor-phase decontamination and is animal- and insect-proof. All penetrations through these structures and surfaces are sealed. (The integrity of the walls, floors, ceilings, and penetration seals should ensure adequate containment of a vapor-phase decontaminant under static pressure conditions. This requirement does not imply that these surfaces must be airtight.)

Appendix G–II–D–3–c. A foot-, elbow-, or automatically-operated handwashing facility shall be provided near the door within each laboratory in which experiments involving recombinant DNA are conducted in openface biological safety cabinets.

Appendix G–II–D–3–d. Central vacuum systems are permitted. The system, if provided, shall not serve areas outside the P4 facility. The vacuum system shall include in-line HEPA filters near each use point or service cock. The filters shall be installed so as to permit in-place decontamination and replacement. Water supply, liquid and gaseous services provided to the P4 facility shall be protected by devices that prevent backflow.

Appendix G–II–D–3–e. Drinking water fountains shall not be installed in laboratory or animal rooms of the P4 facility. Foot-operated water fountains are permitted in the corridors of the P4 facility. The water service provided to such fountains shall be protected from the water services to the laboratory areas of the P4 facility.

Appendix G–II–D–3–f. Laboratory doors shall be self-closing.

Appendix G–II–D–3–g. A double-door autoclave shall be provided for sterilization of material passing out of the P4 facility. The autoclave doors shall be interlocked so that both doors will not be open at the same time.

Appendix G–II–D–3–h. A pass-through dunk tank or fumigation chamber shall be provided for removal from the P4 facility of material and equipment that cannot be heat-sterilized.

Appendix G–II–D–3–i. All liquid effluents from the P4 facility shall be collected and decontaminated before disposal. Liquid effluents from biological safety cabinets and laboratory sinks shall be sterilized by heat. Liquid effluents from the shower and hand washing facilities may be activitated by chemical treatment. HEPA filters shall be installed in all vents from effluent drains.

Appendix G–II–D–3–j. An individual supply and exhaust-air ventilation system shall be provided. The system shall maintain pressure differentials and directional air flow as required to ensure inflow from areas outside the facility toward areas of highest potential

risk within the facility. The system shall be designed to prevent the reversal of air flow. The system shall sound an alarm in the event of system malfunction.

Appendix G–II–D–3–k. Air within individual laboratories of the P4 facility may recirculated if HEPA filtered.

Appendix G–II–D–3–l. The exhaust air from the P4 facility shall be HEPA filtered and discharged to the outdoors so that it is dispersed clear of occupied buildings and air intakes. The filter chambers shall be designed to allow *in situ* decontamination before removal and to facilitate certification testing after replacement.

Appendix G–II–D–3–m. The treated exhaust-air from Class I and Class II biological safety cabinets [12] may be discharged directly to the laboratory room environment or to the outdoors. The treated exhaust-air from Class III cabinets shall be discharged to the outdoors. If the treated exhaust-air from these cabinets is to be discharged to the outdoors through the P4 facility exhaust air system, it shall be connected to this system so as to avoid any interference with the air balance of the cabinets or the facility exhaust air system.

Appendix G–II–D–3–n. As noted in Appendix G–II–D–2–a, the P4 facility may contain specially designed areas in which all personnel are required to wear one-piece positive-pressure isolation suits. Such areas shall be airtight. The exhaust-air from the suit area shall be filtered by two sets of HEPA filters installed in series, and a duplicate filtration unit and exhaust fan shall be provided. The air pressure within the suit area shall be less than that on any adjacent area. An emergency lighting system, communication systems, and power source shall be provided. A double-door autoclave shall be provided for sterilization of all waste materials to be removed from the suit area.

Personnel who enter this area shall wear a one-piece positive-pressure suit that is ventilated by a life-support system. The life-support system shall be provided with alarms and emergency backup air. Entry to this area is through an airlock fitted with airtight doors. A chemical shower area shall be provided to decontaminate the surfaces of the suit before removal.

Appendix G–III. Footnotes and References of Appendix G

1. *Laboratory Safety at the Center for Disease Control* (Sept. 1974). U.S. Department of Health Education and Welfare Publication No. CDC 75–8118.

2. *Classification of Etiologic Agents on the Basis of Hazard.* (4th Edition, July 1974). U.S. Department of Health, Education and Welfare. Public Health Service. Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

3. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (Oct. 1974). U.S. Department of Health, Education and Welfare Publication No. (NIH) 75–790.

4. *National Institutes of Health Biohazards Safety Guide* (1974). U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health. U.S. Government Printing Office, Stock No. 1740–00383.

5. *Biohazards in Biological Research* (1973). A. Hellman, M. N. Oxman, and R. Pollack (ed.) Cold Spring Harbor Laboratory.

6. *Handbook of Laboratory Safety* (1971). Second Edition. N. V. Steere (ed.) The Chemical Rubber Co., Cleveland.

7. Bodily, J. L. (1970). *General Administration of the Laboratory,* H. L. Bodily, E. L. Updyke, and J. O. Mason (eds.), Diagnostic Procedures for Bacterial, Mycotic and Parasitic Infections. American Public Health Association, New York, pp. 11–28.

8. Darlow, H. M. (1969). *Safety in the Microbiological Laboratory.* In J. R. Norris and D. W. Robbins (ed.), Methods in Microbiology. Academic Press, Inc. New York. pp. 169–204.

9. *The Prevention of Laboratory Acquired Infection* (1974). C. H. Collins, E. G. Hartley, and R. Pilsworth. Public Health Laboratory Service, Monograph Series No. 6.

10. Chatigny, M. A. (1961). *Protection Against Infection in the Microbiological Laboratory: Devices and Procedures.* In W. W. Umbreit (ed.) Advances in Applied Microbiology. Academic Press, New York, N.Y. 3:131–192.

11. Horsfall, F. L., Jr., and J. H. Baner (1940). *Individual Isolation of Infected Animals in a Single Room.* J. Bact. *40,* 569–580.

12. Biological safety cabinets referred to in this section are classified as *Class I, Class II,* or *Class III* cabinets. A *Class I* is a ventilated cabinet for personnel protection having an inward flow of air away from the operator. The exhaust air from this cabinet is filtered through a high-efficiency particulate air (HEPA) filter. This cabinet is used in three operational modes: (1) with a full-width open front, (2) with an installed front closure panel (having four 8-inch diameter openings) without gloves, and (3) with an installed front closure panel equipped with arm-length rubber gloves. The face velocity of the inward flow of air through the full-width open front is 75 feet per minute or greater.

A *Class II* cabinet is a ventilated cabinet for personnel and product protection having an open front with inward air flow for personnel protection, and HEPA filtered mass recirculated air flow for product protection. The cabinet exhaust air is filtered through a HEPA filter. The face velocity of the inward flow of air through the full-width open front is 75 feet per minute or greater. Design and performance specifications for *Class II* cabinets have been adopted by the National Sanitation Foundation, Ann Arbor, Michigan. A *Class III* cabinet is a closed-front ventilated cabinet of gas-tight construction which provides the highest level of personnel protection of all biohazard safety cabinets. The interior of the cabinet is protected from contaminants exterior to the cabinet. The cabinet is fitted with arm-length rubber gloves and is operated under a negative pressure of at least 0.5 inches water gauge. All supply air is filtered through HEPA filters. Exhaust air is filtered through two HEPA filters or one HEPA filter and incinerator before being discharged to the outside environment.

Appendix H.—Shipment

Recombinant DNA molecules contained in an organism or virus shall be shipped only as an etiologic agent under requirements of the U.S. Public Health Service, and the U.S. Department of Transportation (§ 72.3, Part 72, Title 42, and §§ 173.386–.388, Part 173, Title 49, U.S. Code of Federal Regulations (CFR)) as specified below:

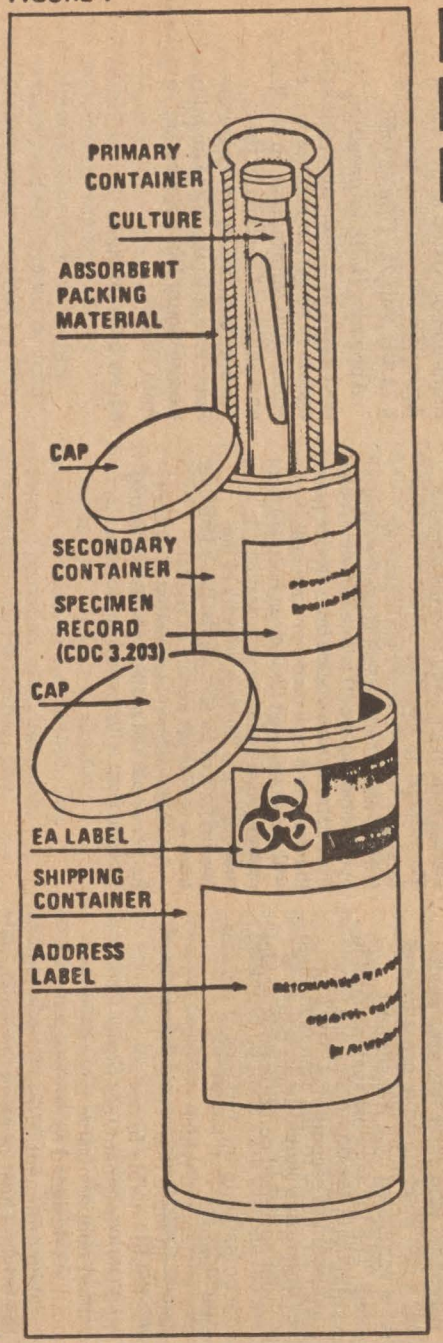
Appendix H–I. Recombinant DNA modecules contained in an organism or virus requiring P1, P2, or P3 physical containment, when offered for transportation or transported, are subject to all requirements of § 72.3(a)–(e), Part 72, Title 42 CFR, and §§ 173.386–.388, Part 173, Title 49 CFR.

Appendix H–II. Recombinant DNA molecules contained in an organism or virus requiring P4 physical containment, when offered for transportation or transported, are subject to the requirements listed above under Appendix H–I and are also subject to § 72.3(f), Part 72, Title 42 CFR.

Appendix H–III. Information on packaging and labeling of etiologic agents is shown in Figures 1, 2, and 3. Additional information on packaging and shipment is given in the "Laboratory Safety Monograph—A Supplement to the NIH Guidelines for Recombinant DNA Research," available from ORDA.

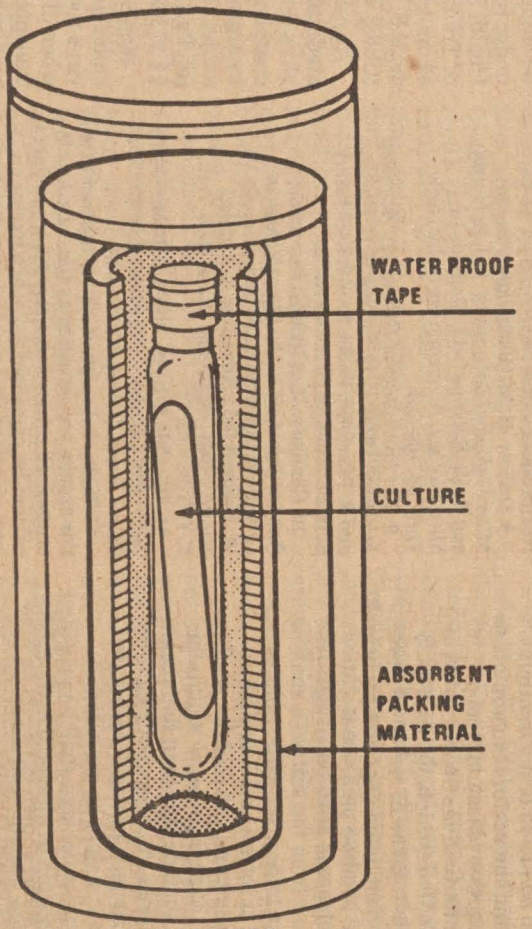
BILLING CODE 4140-01-M

FIGURE 1



PACKAGING AND LABELING OF ETIOLOGIC AGENTS

FIGURE 2



CROSS SECTION OF PROPER PACKING

The Interstate Shipment of Etiologic Agents (42 CFR, Part 72) was revised July 21, 1980 to provide for packaging and labeling requirements for etiologic agents and certain other materials shipped in interstate traffic.

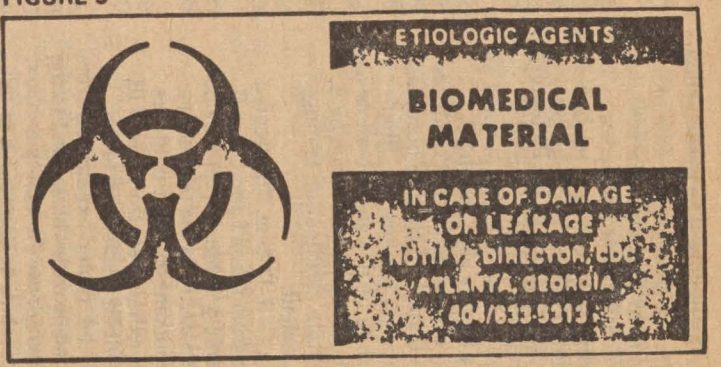
Figures 1 and 2 diagram the packaging and labeling of etiologic agents in volumes of less than 50 ml. in accordance with the provisions of subparagraph 72.3 (a) of the cited regulation. Figure illustrates the color and size of the label, decribed in subparagraph 72.3 (d) (1 - 5) of the regulations, which shall be affixed to all shipments of etiologic agents.

For further information on any provision of this regulation contact:

Centers for Disease Control
Attn: Biohazards Control Office
1600 Clifton Road
Atlanta, Georgia 30333

Telephone: 404–329-3883
FTS–236-3883

FIGURE 3



BILLING CODE 4140-01-C

Appendix I.—Biological Containment

Appendix I–I. *Levels of Biological Containment.* In consideration of biological containment, the vector (plasmid, organelle, or virus) for the recombinant DNA and the host (bacterial, plant, or animal cell) in which the vector is propagated in the laboratory will be considered together. Any combination of vector and host which is to provide biological containment must be chosen or constructed so that the following types of "escape" are minimized: (i) survival of the vector in its host outside the laboratory and (ii) transmission of the vector from the propagation host to other nonlaboratory hosts.

The following levels of biological containment (HV, or *H*ost-*V*ector, systems) for prokaryotes will be established; specific criteria will depend on the organisms to be used.

Appendix I–I–A. *HV1.* A host-vector system which provides a moderate level of containment. *Specific systems:*

Appendix I–I–A–1. *EK1.* The host is always *E. coli* K–12 or a derivative thereof, and the vectors include nonconjugative plasmids (e.g., pSC101, ColE1, or derivatives thereof [1–7]) and variants of bacteriophage, such as lambda [8–15]. The *E. coli* K–12 hosts shall not contain conjugation-proficient plasmids, whether autonomous or integrated, or generalized tranducing phages.

Appendix I–I–A–2. *Other HV1.* Hosts and vectors shall be, at a minimum, comparable in containment to *E. coli* K–12 with a non conjugative plasmid or bacteriophage vector. The data to be considered and a mechanism for approval of such HV1 systems are described below (Appendix I–II).

Appendix I–I–B. *HV2.* These are host-vector systems shown to provide a high level of biological containment as demonstrated by data from suitable tests performed in the laboratory. Escape of the recombinant DNA either via survival of the organisms or via transmission of recombinant DNA to other organisms should be less than $1/10^8$ under specified conditions. *Specific systems:*

Appendix I–I–B–1. For EK2 host-vector systems in which the vector is a plasmid, no more than one in 10^8 host cells should be able to perpetuate a cloned DNA fragment under the specified nonpermissive laboratory conditions designed to represent the natural environment, either by survival of the original host or as a consequences of transmission of the cloned DNA fragment.

Appendix I–I–B–2. For EK2 host-vector systems in which the vector is a phage, no more than one in 10^8 phage particles should be able to perpetuate a cloned DNA fragment under the specified nonpermissive laboratory conditions designed to represent the natural environment either (i) as a prophage (in the inserted or plasmid form) in the laboratory host used for phage propagation or (ii) by surviving in natural environments and transferring a cloned DNA fragment to other hosts (or their resident prophages).

Appendix I–II. *Certification of Host-Vector Systems.*

Appendix I–II–A. *Responsibility.* HV1 systems other than *E. coli* K–12, and HV2 host-vector systems, may not be designated as such until they have been certified by the Director, NIH. Application for certification of a host-vector system is made by written application to the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205.

Host-vector systems that are proposed for certification will be reviewed by the National Institutes of Health (NIH) Recombinant DNA Advisory Committee (RAC). (See Section IV–C–1–b–(1)–(e).) This will first involve review of the data on construction, properties, and testing of the proposed host-vector system by a Working Group composed of one or more members of the RAC and other persons chosen because of their expertise in evaluating such data. The Committee will then evaluate the report of the Working Group and any other available information at a regular meeting. The Director, NIH, is responsible for certification after receiving the advice of the RAC. Minor modifications of existing certified host-vector systems, where the modifications are of minimal or no consequence to the properties relevant to containment may be certified by the Director, NIH, without review by the RAC. (See Section IV–C–1–b–(3)–(c).)

When new host-vector systems are certified, notice of the certification will be sent by the Office of Recombinant DNA Activities (ORDA) to the applicant and to all Institutional Biosafety Committees (IBCs) and will be published in the *Recombinant DNA Technical Bulletin.* Copies of a list of all currently certified host-vector systems may be obtained from ORDA at any time.

The Director, NIH, may at any time rescind the certification of any host-vector system. (See Section IV–C–1–b–(3)–(d).) If certification of a host-vector system is rescinded, NIH will instruct investigators to transfer cloned DNA into a different system, or use the clones at a higher physical containment level unless NIH determines that the already constructed clones incorporate adequate biological containment.

Certification of a given system does not extend the modifications of either the host or vector component of that system. Such modified systems must be independently certified by the Director, NIH. If modifications are minor, it may only be necessary for the investigator to submit data showing that the modifications have either improved or not impaired the major phenotypic traits on which the containment of the system depends. Substantial modifications of a certified system require the submission of complete testing data.

Appendix I–II–B. *Data To Be Submitted for Certification.*

Appendix I–II–B–1. *HV1 Systems Other than E. coli K–12.* The following types of data shall be submitted, modified as appropriate for the particular system under consideration. (i) A description of the organism and vector; the strain's natural habitat and growth requirements; its physiological properties, particularly those related to its reproduction and survival and the mechanisms by which it exchanges genetic information; the range of organisms with which this organism normally exchanges genetic information and what sort of information is exchanged; and any relevant information on its pathogenicity or toxicity. (ii) A description of the history of the particular strains and vectors to be used, including data on any mutations which render this organism less able to survive or transmit genetic information. (iii) A general description of the range of experiments contemplated, with emphasis on the need for developing such an HV1 system.

Appendix I–II–B–2. *HV2 Systems.* Investigators planning to request HV2 certification for host-vector systems can obtain instructions from ORDA concerning data to be submitted [14–15]. In general, the following types of data are required: (i) Description of construction steps, with indication of source, properties, and manner of introduction of genetic traits. (ii) Quantitative data on the stability of genetic traits that contribute to the containment of the system. (iii) Data on the survival of the host-vector system under nonpermissive laboratory conditions designed to represent the relevant natural environment. (iv) Data on transmissibility of the vector and/or a cloned DNA fragment under both permissive and nonpermissive conditions. (v) Data on all other

properties of the system which affect containment and utility, including information on yields of phage or plasmid molecules, ease of DNA isolation, and ease of transfection or transformation. (vi) In some cases, the investigator may be asked to submit data on survival and vector transmissibility from experiments in which the host-vector is fed to laboratory animals and human subjects. Such *in vivo* data may be required to confirm the validity of predicting *in vivo* survival on the basis of *in vitro* experiments.

Data must be submitted in writing to ORDA. Ten to twelve weeks are normally required for review and circulation of the data prior to the meeting at which such data can be considered by the RAC. Investigators are encouraged to publish their data on the construction, properties, and testing of proposed HV2 systems prior to consideration of the system by the RAC and its subcommittee. More specific instructions concerning the type of data to be submitted to NIH for proposed EK2 systems involving either plasmids or bacteriophage in *E. coli* K–12 are available from ORDA.

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Appendix J.—Federal Interagency Advisory Committee on Recombinant DNA Research

Appendix J–I. The Federal Interagency Advisory Committee on Recombinant DNA Research advises the Secretary of the Department of Health and Human Services, the Assistant Secretary for Health, and the Director, National Institutes of Health, on the coordination of those aspects of all Federal programs and activities relating to recombinant DNA research. The Committee provides for communication and exchange of information necessary to maintain adequate coordination of such programs and activities. The Committee is responsible for facilitating compliance with a uniform set of guidelines in the conduct of this research in the public and private sectors and, where warranted, to suggest administrative or legislative proposals.

The Director of the NIH, or his designee, serves as Chairman, and the Committee includes representation from all Departments and Agencies whose programs involve health functions or responsibilities as determined by the Secretary.

Departments and Agencies which have representation on this Committee, as of December 1980, are:

Department of Agriculture
Department of Commerce
Department of Defense
Department of Energy
Environmental Protection Agency
Executive Office of the President
Department of Health and Human Services
  Office of the Assistant Secretary for Health
  Centers for Disease Control
  Food and Drug Administration
  National Institutes of Health
Department of the Interior
Department of Justice
Department of Labor
National Aeronautics and Space Administration
National Science Foundation
Nuclear Regulatory Commission
Department of State
Department of Transportation
Arms Control and Disarmament Agency
Veterans Administration

At the second meeting of the Committee on November 23, 1976, all of the Federal agencies endorsed the NIH Guidelines, and Departments which support or conduct recombinant DNA research agreed to abide by the NIH Guidelines [1].

Appendix J–II. *Footnote of Appendix J*

1. Minutes of the first eight meetings of the Federal Interagency Advisory Committee on Recombinant DNA Research are reproduced in *Recombinant DNA Research, Volume 2, Documents Relating to "NIH Guidelines for Research Involving Recombinant DNA Molecules," June 1976–November 1977.*

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8–(b)–(4) and (5) of that Circular.

Dated: August 18, 1982.

Richard M. Krause,
Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health.

[FR Doc. 82-23306 Filed 8-26-82; 8:45 am]
BILLING CODE 4140-01-M

federal register

Friday
August 27, 1982

Part V

Environmental Protection Agency

Regulation of Fuels and Fuel Additives

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AEN-FRL-2182-7(a)]

Regulation of Fuels and Fuel Additives

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of proposed rule.

SUMMARY: On February 22, 1982, EPA announced that it would consider whether conditions now justify rescission or modification of its regulations (promulgated in 1973) requiring refineries to meet a 0.5 gram per gallon (gpg) standard for the average lead content of gasoline. This standard is now in effect for all refineries except those classified as small refineries (under 50,000 barrels per day capacity, not owned by a refiner with total capacity over 137,500 barrels per day). Small refineries would be subject to this standard beginning on October 1, 1982, absent any change in the regulations. EPA's decision to reconsider this regulation was based on the question of whether the standard was still necessary due to the ever increasing use of unleaded gasoline in this country, as all new cars now require the use of unleaded fuel to protect their emission control systems.

EPA's notice listed alternative actions ranging from retention of the current 0.5 gpg standard to rescission of the regulation, and requested comments on the various alternatives. Based on a review of these comments and other information available to the Agency, EPA has determined that it will not relax or rescind the overall standard of 0.5 gpg and is therefore withdrawing that portion of the February 22 proposal. EPA has determined that rescinding or relaxing the present lead standard would result in an increase in lead emissions to the atmosphere, that environmental lead exposure continues to be a national health concern and that there is no new information which leads EPA to determine that continuing control of lead in gasoline is not appropriate. (Elsewhere in this issue of the **Federal Register** the Agency is proposing establishment of new standards regulating the lead content of leaded gasoline which are intended to be equivalent to levels of lead under the existing standards for lead content of all gasoline, and which are intended in the future, to result in lower lead levels than the current standards. In addition, elsewhere in this issue EPA is suspending applicability of the 0.5 gpg standard to small refineries for a one-month period ending October 31, 1982.)

DATE: This action is effective August 27, 1982.

FOR FURTHER INFORMATION CONTACT: Richard G. Kozlowski, Director, Field Operations and Support Division (EN-397), EPA, 401 M Street SW., Washington, D.C. 20460. Telephone (202) 382-2633.

SUPPLEMENTARY INFORMATION:

I. Background

A. History of Present Regulatory Program

Section 211(c)(1) of the Clean Air Act, 42 U.S.C. 7545(c), authorizes the Administrator of EPA to "control or prohibit the manufacture, introduction into commerce, offering for sale, or sale of any fuel additive for use in a motor vehicle * * * if in the judgment of the Administrator any emission product of such fuel or fuel additive causes, or contributes, to air pollution which may reasonably be anticipated to endanger the public health or welfare * * *" Under this statutory provision, EPA on December 6, 1973, promulgated a regulation establishing a five-step program to reduce the amount of lead in gasoline gradually. 38 FR 33734. The final step of this lead "phasedown" program was to become effective on January 1, 1979, after which all gasoline refineries were required to produce gasoline the lead content of which would not exceed 0.5 grams of lead per gallon (gpg) of gasoline, averaged over a calendar quarter. This regulation was upheld by the U.S. Court of Appeals for the District of Columbia Circuit, sitting *en banc*, on March 19, 1976. See Ethyl Corp. v. EPA, 541 F.2d 1 (D.C. Cir. 1976), cert. denied 426 U.S. 941 (1976).

On September 28, 1976, the Agency extended the date for compliance with the 0.5 gpg standard to October 1, 1979. 41 FR 42675. On September 12, 1979, refineries were allowed a further extension to October 1, 1980, provided that they agreed either to increase their production of unleaded gasoline by at least six percent or to produce at least 45 percent unleaded gasoline. 44 FR 53144.

On August 7, 1979, in response to the Clean Air Act Amendments of 1977, EPA promulgated less stringent standards for small refineries. A small refinery is defined in the regulations as "a refinery (1) (w)hich has a crude oil or bona fide feedstock capacity of 50,000 barrels per day or less, and (2) (w)hich is not owned or controlled by any refiner with a total combined crude oil or bona fide feedstock capacity greater than 137,500 barrels per day." 40 CFR 80.2(p). Five standards for small refineries are provided in the regulations, ranging from .80 gpg for those with the largest production rate to 2.65 gpg for those with the smallest rate. 40 CFR 80.20(b)(1).

These small refinery standards are the most stringent currently allowed by the 1977 amendments and are presently scheduled to expire on October 1, 1982. After that date the Act gives EPA wide latitude to set appropriate standards for small refineries. The current regulations require these small refineries to meet the same 0.5 gpg standard that other refineries have been required to meet since October 1, 1980. (Elsewhere in this issue of the **Federal Register**, EPA is proposing to amend the lead phasedown regulations and is suspending the October 1, 1982, compliance date for small refineries for one month.)

B. February 22, 1982, Notice of Proposed Rulemaking

On February 22, 1982, EPA published a notice of proposed rulemaking outlining various alternative regulatory options for the lead phasedown program. See 47 FR 7812. The notice indicated that EPA was considering whether new conditions would justify rescission or modification of the 0.5 gpg standard. Since it was estimated that approximately 52 percent of the gasoline sold in this country now is unleaded, the Agency noted that questions had been raised as to whether the 0.5 gpg standard was still necessary. The notice listed six alternatives under consideration: retention of the current 0.5 gpg standard; a .65 gpg standard; a .8 gpg standard; a 1.0 gpg standard; a 0.5 gpg standard only in areas with lead emission problems; and rescission of the current standard. Comments were requested on whether the 0.5 gpg standard should be changed, particularly comments dealing with the health effects, air quality impacts, economic impacts and energy impacts of the various alternatives.

The notice of proposed rulemaking also requested comments on other issues related to small refineries, gasoline blenders, gasoline importers, and averaging. In regard to small refineries, the key issues were what should be the appropriate standard for this type of refinery and which plants should be treated as small refiners. Alternative standards proposed included: the same standard as other refineries; the current small refinery standards (0.8 gpg to 2.65 gpg, depending on size); and 1.0 gpg for all small refineries. Various alternative criteria

for defining small refineries were also proposed, based on plant capacity, plant production, company size, date that gasoline refining began, and other factors. The Agency also requested comments on whether plants that produce gasoline but do not process crude oil (so-called "blenders") should be treated as small refineries and weather gasoline imported into the United States should be subject to lead content standards. Finally the Agency requested comments on whether averaging of lead content should be permitted: (1) Among refineries owned by the same refiner; (2) among refineries owned by different refiners; and/or (3) over longer periods of time than the current quarterly system.

A public hearing was held on April 15 and 16, 1982, in Arlington, Virginia, for the purpose of hearing testimony on the various alternative regulatory proposals outlined above. Testimony was presented by 81 witnesses, including representatives of the health community, the lead industry, environmental and public interest groups, large refiners, small refiners, blenders, other Federal agencies, State and local officials, and petroleum trade associations, as well as private citizens. In addition, more than 700 written comments on this notice of rulemaking were submitted to the rulemaking docket prior to the close of the public comment period on May 17, 1982. All such testimony and written comments, as well as comments received and docketed after that date, have been considered in development of the rulemaking documents published in today's Federal Register.

II. Impact on Lead Additive Usage of Various Regulatory Alternatives

In the notice of proposed rulemaking, EPA noted that it anticipated that any problem caused by rescission or relaxation of the lead phasedown regulation would be of a short-term nature due to the growing use of unleaded gasoline. On this basis the continuing need for regulation of lead in gasoline was questioned. Based on comments received in response to the notices of proposed rulemaking and further analaysis performed by the Agency, EPA has determined that the following levels of lead usage would occur under the specified regulatory options for the lead phasedown program during the period 1983–1986:

LEAD USAGE (BILLIONS OF GRAMS)

Year	.5 gpg	.65 gpg	.8 gpg	1.0 gpg	Rescission
1983	46.6–54.7	60.9–67.3	74.8–80.2	85.0–87.0	87.0
1984	45.1–52.7	58.7–65.1	70.5–72.5	70.5–72.5	72.5
1985	44.0–51.5	57.1–60.1	58.3–60.1	58.3–60.1	60.1
1986	41.4–48.9	47.0–48.9	47.0–48.9	47.0–48.9	48.9

All of the standards in the above table are pool-average standards for all gasoline produced. The range of lead usage for each standard reflects different assumptions regarding small refinery exemptions, ranging from no exemptions through continuation of the existing small refinery definition and standards.

This table indicates that any of the proposed alternative standards would result in increased lead usage and hence increased lead emissions to the atmosphere. The increases range from 31 percent to 86 percent in 1983.

III. Health and Air Quality Considerations

A. Introduction

The Environmental Protection Agency regulations controlling the use of lead in motor vehicle gasoline were originally promulgated on December 6, 1973. At that time the basic health rationale for the regulations was contained in an EPA position paper, "EPA's Position on the Health Implications of Airborne Lead," issud on November 28, 1973. The position paper (a copy of which has been placed in the docket for this rulemaking) was the result of a review and evaluation of all relevant studies pertaining to the interaction of environmental lead and human health by a task force of EPA medical experts and scientists. It provided the basis for the conclusion that there was a health basis for the reduction of lead in gasoline use and that such a reduction should be required to the extent possible.

Since that time EPA reexamined the relevant scientific and medical literature on the health implications of environmental lead when it proceeded to establish national ambient air quality standards (NAAQS) for lead. As required by § 108 of the Clean Air Act, 42 U.S.C. 7408, a criteria document was developed as part of the NAAQS development process. Section 108 requires that the criteria document "accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [lead] in the ambient air, in varying quantities." The criteria document was reviewed by EPA's Science Advisory Board and issued on December 14, 1977. Based upon the criteria document EPA drew a number of key conclusions (discussed below) and established the NAAQS for lead on October 5, 1978. The NAAQS for lead were upheld by the U.S. Court of Appeals for the District of Columbia Circuit. Lead Industries Assn., Inc. v. EPA, 647 F. 2d 1130 (D.C. Cir. 1980), cert. denied 449 U.S. 1042 (1980).

While the above actions and findings are the principal statements by EPA on the health effects of environmental lead, an additional document published in 1980 by the National Academy of Sciences, "Lead in the Human Environmental," is of special relevance to the issue of the health implications of controlling lead in gasoline. Major findings of this report were that lead exposure from all significant sources should be controlled and that the reduction of lead emission from gasoline combustion should be a major lead control strategy. These findings were supportive of the Agency's rationale for initiation of the lead phasedown program. Section 307(d) of the Clean Air Act, 42 U.S.C. 7607(d), requires that all proposed rulemakings under section 311 shall contain statements which "set forth or summarize and provide a reference to any pertinent findings, recommendations, and comments by * * * the National Academy of Sciences, and, if the proposal differs in any important respect from any of these recommendations an explanation of the reasons for such differences." The findings and conclusions made by EPA, below, do not differ in any important respect from, and are consistent with, the findings and conclusions of the NAS and the EPA criteria document. The February 22, 1982, proposal specifically asked that commenters urging a change in the present EPA regulations address relevant findings in the 1980 NAS report.

The Agency has received numerous comments relating to the health implications of the February 22 proposal. EPA evaluated these comments in order to determine whether new information developed since initiation of the lead phasedown program, particularly information developed since establishment of the lead NAAQS, should lead to a change in the premise for the lead phasedown program. This premise was that gasoline lead usage should be controlled to the

extent possible. A large number of the comments received were testimonial in nature, providing no analysis, new studies, or new perspectives on studies previously reviewed by EPA or the NAS. Some of the comments, however, provided important contributions involving studies or analyses not previously reviewed by EPA or the NAS. As any major change in the lead phasedown regulations would require a reassessment of previous judgements made on the health-related impacts of the regulations, EPA first reviewed the basis of the original lead phasedown rulemaking, as well as subsequent findings in the criteria documents. Each of the new studies submitted during the comment period for the February 22 notice was then reviewed against this framework in an attempt to determine whether the premise for the lead phasedown program should be modified. Based on a careful review of the record, EPA is not persuaded that this premise should be modified.

B. Summary of Findings and Conclusions: Original Lead Phasedown Regulations

In its December 6, 1973, promulgation of the original lead phasedown regulations, the Agency recognized that the extent of the contribution of lead in gasoline to the lead exposure problem in this country was controversial and complex. EPA nevertheless concluded that in its judgment there were sufficient health-based concerns to initiate a regulatory program to reduce the use of lead in gasoline. The lead phasedown program was based on the premise that gasoline lead emissions should be controlled to the extent possible. The rationals for this judgment was based on certain key general findings as well as findings based on critical specific issues.

1. *General Findings.* The general findings leading to the Agency's initial decision to regulate lead usage in gasoline are summarized below.

(a) Environmental lead exposure is a major health problem in this country. A small but significant portion of the urban adult population and up to 25 percent of the children in urban areas are over-exposed to lead.

(b) The lead exposure problem is caused by a combination of sources, including food, water, air, leaded paint and dust.

(c) It is extremely difficult to determine what percentage of the problem each separate environmental factor contributes.

(d) Since the sources are additive and their importance varies considerably among individuals, it is difficult to determine what impact would be achieved by a partial or total reduction of lead from any source.

(e) A reduction in lead from all sources would substantially improve the situation.

(f) Lead in gasoline is a source of air and dust lead which can be readily and significantly reduced in comparison to other sources.

(g) Lead from gasoline accounts for over 90 percent of the airborne lead and, combined with lead from stationary sources and deteriorating lead-based paint, causes high lead levels in dirt and dust.

(h) Lead in gasoline is the most ubiquitous source of lead in dust, dirt, and air.

(i) Human exposure resulting from lead in gasoline comes from inhalation of airborne lead and from ingestion of dirt and dust contaminated by fallout from airborne lead.

(j) Since exposure to lead among the general population is widespread, it is reasonable that efforts be made to reduce preventable sources of lead exposure, including lead emissions resulting from lead in gasoline.

2. *Critical Issues.* In the original rulemaking process, EPA received comments on three critical issues. The issues and the Agency's responses were as follows:

(a) Is there a correlation between air lead levels and blood lead levels? Comments claimed that EPA had not found consistently strong correlations of air lead and blood lead levels. After reexamination of the data EPA concluded that, while such correlations were not always good at lower exposure levels, the evidence indicated that air lead does contribute to general population lead exposure. In addition, EPA concluded that air lead combined with lead from other sources results in total exposure to lead which is excessive. Thus, EPA found that the partial removal of lead from the air would help to reduce the degree of excess lead exposure.

(b) Does dust lead contribute to lead poisoning in children? Comments were received which maintained that the primary cause of lead poisoning is the ingestion of lead-based paint. EPA made the following observations. The Agency found that in most circumstances, due to its ubiquitous nature, automobile exhaust is the primary source of lead in dust and soils in urban areas. This was based in part on environmental sampling data near roadways unassociated with sources of lead-based paint or stationary sources. EPA also observed that up to 50 percent of children with excessive lead exposure are known not to reside in homes where peeling lead-based paint can be found. Children in urban areas were also found to have large quantities of leaded dust on their hands and a large percentage of children were known to ingest non-food objects in their mouths. Thus, EPA concluded dust lead was an important source of lead exposure and that gasoline lead was a major source of dust lead. In addition, EPA distinguished between clinical effects and subclinical effects. EPA noted that physiologically significant biochemical changes occur in children with excessive exposure below clinical toxicity and that scientific information, though far from resolving this issue, supports the view that adverse effects due to lead in children are not confined only to situations in which overt clinical symptoms of lead poisoning occur. This last finding in conjunction with the previously mentioned environmental sampling data led EPA to the conclusion that dust lead, in some circumstances, contributed to excessive lead exposure associated with subclinical effects.

(c) Will a reduction of lead in gasoline reduce the incidence of clinical lead poisoning in children? As in the previous issue, comments on this issue questioned the need for a reduction in lead use in gasoline because the predominant source of lead poisoning was claimed to be lead-based paint. EPA found that lead poisoning could develop in the absence of significant sources of lead-based paint. EPA also expressed its concern that children exposed to lead levels below those associated with clinical poisoning were also being adversely affected. Several effects identified as subclinical lead effects included impairment of fine motor function and altered behavior. In conclusion, while EPA could not quantify the impact that the lead phasedown controls would have on lead poisoning, in its judgment the regulatory action would significantly reduce lead exposure among children.

C. Summary of Findings: National Ambient Air Quality Standards for Lead

The Environmental Protection Agency promulgated national ambient air quality standards (NAAQS) for lead on October 5, 1978. 43 FR 46246. The preamble to the final lead NAAQS contains a detailed discussion of EPA's findings and conclusions based on the criteria document, "Air Quality Criteria for Lead," cited earlier. Because the NAAQS were based on the latest comprehensive review by EPA of the health impacts of environmental lead exposure, EPA's findings and conclusions bearing on the health

impacts of the lead phasedown regulations are summarized below. A more complete discussion can be found in the preamble to the NAAQS promulgation and in the criteria document itself.

1. *Summary of General Findings.* Based on the lead criteria document, EPA made the following general findings in establishing the lead NAAQS, which have a bearing on the current proceedings (see 43 FR 46247, October 5, 1978):

(a) There are multiple sources of lead exposure.

(b) Exposure to air lead can occur directly by inhalation, or indirectly by ingestion of lead-contaminated food, water, or nonfood materials including dust and soil.

(c) There is significant individual variability in response to lead exposure. With a particular population, individual response to lead exposure may vary widely from the average response for the same group. Certain subgroups are more subsceptible to the effects of lead or have a greater exposure potential. Of these, young children represent the population of foremost concern.

(d) Health risks associated with various blood lead levels range from the risk of permanent, severe, neurological damage or death as blood lead levels approach and exceed 80 to 100 micrograms of lead per deciliter of blood (μg Pb/dl) in children down to the inhibition of an enzyme system at levels as low as 10 μg Pb/dl.

2. Critical Issues. EPA also reached conclusions on the following issues in developing the NAAQS for lead.

(a) *Critical Adverse Health Effect.* EPA concluded that the reduction of hemoglobin synthesis due to the general impairment of heme synthesis by lead constituted the critical adverse health effect for purposes of the rulemaking. Certain other biochemical changes associated with impaired heme synthesis, such as elevations in erythrocyte protoporphyrin (EP), were not selected as the critical adverse health effect for standard setting purposes, due to controversy regarding the medical significance of such changes. Rather than a detailed treatment of each of the controversial issues and ramifications thereof, it is sufficient to say that EPA chose the reduction in hemoglobin synthesis as the critical adverse health effect in part because of its medical significance in terms of disruption of a vital physiological process affecting virtually all body tissues and organ systems and ultimately leading to clinical manifestations of anemia. Thus, it was concluded that prudent public policy dictated corrective action prior to the appearance of clinical symptoms constituting severe anemia.

(b) *Maximum Safe Blood Lead Level.* In establishing a maximum safe blood lead level, EPA made a distinction between the blood lead level that is the threshold for the detection of the biological effect, impaired heme synthesis as determined by elevated EP, and the blood lead level at which the effect has progressed to such an extent that it may be regarded as adverse to health; i.e., where hemoglobin synthesis begins to be reduced. Keeping this distinction in mind, EPA concluded that elevated EP is first detected at a blood lead level of 15–20 μg Pb/dl and that the indicated impaired heme synthesis was potentially adverse to young children. However, since the issue appeared to be one of the degree to which the effect had progressed, EPA did not believe that there is a significant risk to health at the point where elevated EP is first detectable (15–20 μg Pb/dl). On the other hand, EPA regarded as clearly adverse to health the impairment of heme synthesis and other effects of lead which result in clinical symptoms of anemia above 40 μg Pb/dl. With this range of effects, EPA concluded that 30 μg Pb/dl is the maximum safe blood lead level for an individual child. This decision was based on the following factors:

(i) The maximum safe blood lead level should be somewhat lower than the threshold for a decline in hemoglobin levels (40 μg Pb/dl).

(ii) The level should be well below the threshold for nervous system deficits (50 μg Pb/dl).

(iii) The level should be no higher than the level characterized as undue exposure by the Center for Disease Control of the Public Health Service, as endorsed by the American Academy of Pediatrics, because of elevation in FR (30 μg Pb/dl).

(iv) The maximum safe blood lead level need not be as low as the detection point for initial elevation of EP (15–20 μg Pb/dl).

(c) Maximum Safe Geometric Mean Blood Lead Level. Based on the data used to determine the maximum safe blood lead level for an individual child, EPA took into account variations in individual susceptibilities and lead exposures in determining a maximum safe geometric mean blood lead level for the sensitive population (young children) as a whole. Given a lognormal population with a geometric standard deviation of 1.3, the maximum safe geometric mean blood lead level for children, based on placing 99.5 percent of the population below the level of 30 μg Pb/dl, was determined to be 15 μg Pb/dl.

D. Review of the Health and Air Quality Related Comments on the Current Lead Phasedown Rulemaking

1. Introduction. In response to the February 22, 1982, proposal EPA received a large number of comments concerning various health and air quality aspects of the lead phasedown regulations and the consequences of any changes to these regulations. The summary above of the health basis of the original lead phasedown regulations and of the findings made in setting the lead NAAQS was provided in order to define the framework within which this current regulatory review must take place. The comments on health and air quality impacts were examined individually and collectively to determine if they provided any basis upon which a prior EPA finding needed to be modified. If so, then it had to be determined whether such a modification of a prior finding was sufficient to require a fundamental change in the lead phasedown regulations. In addition, because of the nature of the proposed actions, a careful analysis had to be made as to whether small increases in lead emissions were of concern.

The health-related comments addressed virtually all aspects of EPA's original rationale for implementing the lead phasedown regulations. Therefore, this discussion will examine that rationale in light of the comments that have been received. To reiterate, that rationale is a reasoned judgment by the Administrator that the reduction of lead emissions from motor vehicles will result in a significant reduction in environmental exposure to lead and thus a reduction in the risks to health caused by gasoline lead exposure. This conclusion was reached based on the findings that: (1) environmental lead exposure is a national health problem; (2) there are multiple sources of environmental lead, including lead in air, lead-based paint, and lead from food and water; (3) gasoline lead is a significant source of lead in dust and dirt as well as airborne lead; (4) human exposure to this lead comes from direct inhalation and from ingestion of dirt and dust contaminated by air lead fallout; and (5) it is reasonable to reduce preventable sources of lead exposure including lead emissions resulting from lead in gasoline.

2. Is Environmental Lead Exposure a National Health Problem? Many comments were received from medical and health specialists, private industry, public interest groups, and various

research organizations on the current lead health problem. Most of the testimony from medical and health specialists concerned clinical experience in treating and diagnosing lead poisoning cases. Other testimony centered on health screening or survey data. Much of the testimony focused on the results of the National Center for Health Statistics' Second National Health and Nutrition Examination Survey (NHANES II). Additional comments presented recent results developed by the Center for Disease Control (CDC) concerning community blood lead screening programs. One comment reported recent District of Columbia blood lead screening results.

The majority of the comments emphatically rejected the proposition that lead was no longer a public health problem. Sixty-four comments were received from the professional health community and academia. Sixty of these opposed any loosening of the lead standard, and many suggested that tighter controls would be desirable. Thirty-two comments were received from local and state governments. All of these supported retention of the current standard to protect their citizens' health. Most of the commenters pointed to previous studies, as well as their own experiences, to demonstrate that lead has an adverse effect on people at very low dosages, and that the more the problem is studied the lower the "acceptable level" of lead becomes. They concluded that protection of public health and welfare demands that all reasonable steps be taken to eliminate lead from the environment.

The NHANES II survey was a four-year study (1976–1980) designed to present national estimates of lead levels in whole blood from a representative sample of the U.S. population. Because of its comprehensive and detailed nature different comments chose to emphasize whatever aspects of the survey tended to support the commenter's particular point of view. The comments ranged from a bare recitation of some of the NHANES II findings to attempts to examine selected portions of the NHANES II data (such as only looking at the data from the last half of the survey on the grounds that these data were more representative of current conditions) to attempts to project future values from the data. Rather than attempting to disaggregate the NHANES II data or perform additional analysis of the reported results, EPA believes that the NHANES II data as reported, combined with the testimony of medical and health specialists and the results of the CDC lead poisoning screening program, are a sufficient basis upon which to conclude that there is still a current health problem associated with exposure to environmental lead.

For example, NHANES II data show mean blood lead levels for various subgroups in excess of the EPA maximum safe levels. Four percent of all children (6 months–5 years old) are reported to have blood lead levels in excess of 30 μg Pb/dl.[1] For black children in this age group the statistic is more striking, with 12.2 percent of these children's blood lead exceeding 30 μg Pb/dl. The NHANES II study shows urban (cities greater than one million) black children with a mean blood lead level of 22.2 μg Pb/dl, while central city black children have a mean blood lead level of 23.1 μg Pb/dl. In addition, central city statistics show 10 percent of all children have a mean blood lead level in excess of 31 μg Pb/dl.

It has been argued that these statistics represent the midpoint of the survey (mid-1978) and that current blood lead values are significantly lower. While this might be true, data do not exist substantiating this position and, in any event, EPA does not believe that the apparent decline in blood lead exposure over the past two or three years is sufficient to render the problem of environmental lead exposure a minor health problem. This judgment is reinforced by comments from academic and health community professionals and by the latest CDC statistics on community blood lead screening programs. For the year 1981 more than 20,000 children in about 60 lead-poisoning prevention programs were known to be undergoing pediatric management for lead toxicity. In addition, for about one-third of these children no related dwellings could be found where there was lead-based paint. Previous CDC reports have shown that as many as 50 percent of the lead toxicity cases (CDC classes II, III, IV) were unrelated to dwellings with lead-based paint.

Based on previous studies, the great majority of expert testimony on the subject, and more recent studies, the Agency concludes that there is sufficient basis from which to conclude that environmental lead exposure is still a national health problem.

3. The Contribution of Gasoline Lead to Lead Exposure. No comments disagreed with the proposition that environmental lead exposure is a multi-source problem. Various cited sources were lead-based paint, air lead, lead in dust and dirt, lead in food, and lead in drinking water. However, there was considerable disagreement over the contribution of gasoline lead to total lead exposure. The Agency received comments on a variety of issues related to the contribution of gasoline lead, via air, dirt, and dust, to total lead exposure. Significant comments included: (1) statistical analyses attempting to correlate gasoline lead consumption with blood lead levels over time, either nationally or on an urban area basis, and criticisms of such studies; (2) a West German study on adult blood lead levels purporting to show very modest changes in blood lead levels (10 percent) compared to a large change in gasoline lead consumption (67 percent); (3) observational comparisons of historical trends in blood lead levels and gasoline consumption from 1935 to 1981 and from 1973 to 1978; (4) an unpublished report of a California stable lead isotope ratio analysis (this technique has been used to determine the source of lead due to differences in selected lead isotope ratios between various environmental sources such as paint or gasoline lead); (5) the published report of a British study where a reduction in blood lead levels was noted over the period 1967–1969 versus 1978–1980 when gasoline usage was constant; (6) a number of additional studies that center on the importance of automobile lead fallout to ingested dust or dirt lead as an environmental source; and (7) analyses purporting to show that changes in gasoline lead usage either cause no ambient air quality problems or cause a *de minimis* or small change in blood lead levels.

(a) The Correlation of Gasoline Lead With Blood Lead. Studies were submitted to EPA which attempted to correlate gasoline lead consumption with blood lead levels over time. A Center for Disease Control study correlated the NHANES II blood lead data with national gasoline lead consumption by six-month intervals for the period of the NHANES II survey. Another study (Department of Housing and Urban Development) consisted of separate multivariate regression analyses for three individual cities (Chicago, Louisville, and New York) and used local blood lead screening program data and metropolitan area gasoline lead consumption data. The periods of analysis for this latter study varied from 1967–1980 to 1974–1980, depending on the city. An analysis for the city of Columbus, Ohio, which was apparently

[1] The NHANES II Survey reports arithmetic mean blood lead levels, while the generally accepted center population statistic is the geometric mean. The geometric mean is about 1 μg Pb/dl less than the arithmetic mean.

made by the author of the three-cities study, was also submitted to EPA in a separate comment. Finally, two additional regression analyses were submitted for the cities of Providence, Rhode Island (EPA, Office of Policy and Resources Management) and Chicago (Hsia).

Other comments criticized the CDC statistical analysis which used the NHANES II blood lead data base. These criticisms noted that the analysis was a bivariate analysis which did not include other sources of lead, thus failing to account for the progress that has been made in reducing exposure to food lead, water lead, lead-based paint, and other sources. Other criticisms centered on the usefulness of the NHANES II data base in attempting to define temporal trends. This was based on the fact that the NHANES II survey was designed to be a "snapshot" of the U.S. population encompassing the single time period 1976–1980. Notwithstanding these criticisms, the CDC analysis of the NHANES II survey found a statistically significant correlation between national gasoline lead consumption and blood lead levels.

Little comment was received on the three-city analysis and the Columbus, Ohio, analysis. However, previous comments had been received on preliminary reports of these analyses in other lead phasedown rulemakings and were taken into account in this evaluation. The three-city analysis showed remarkably similar results for each city given the differences in sampling and analysis of blood leads among the cities. In all cases the regression coefficient for gasoline lead was the largest explanatory variable with the highest statistical significance. The multiple regression analysis in the three-cities and Columbus studies was performed on two measures of lead exposure: (1) quarterly averaged geometric mean blood lead levels for children; and (2) percent of blood lead levels of children over 30 μg Pb/dl. Independent variables included quarterly average gasoline lead consumption, season (quarter of the year), age, and race. The results of the multiple regression analysis were used to predict children's geometric mean blood lead levels and the percent of blood lead levels greater than 30 μg Pb/dl for various lead phasedown control scenarios. The major criticism of the three-city and Columbus analyses was the failure to account for other potential sources of environmental lead and thus for the impact of other lead exposure mitigation programs. Thus, it has been maintained that analyses of this type are of little use. This criticism is equally applicable to the Providence and Hsia/Chicago analyses. (Hsia analyzed for lead-based paint and water lead exposure, but omitted food lead and stationary sources of airborne lead.) The results of these latter two studies are in agreement with the three-cities and Columbus analyses.

The statistical analyses were offered to demonstrate the existence of a correlation between gasoline lead and blood lead and, in the case of the three-city analysis and the Hsia analysis, to predict the impact of various lead phasedown control scenarios. Three studies were offered in refutation of the existence of correlation. One was a graphical presentation of national lead consumption and blood lead values of normal populations (no known specific exposure to lead) obtained from a literature search for the years 1935–1981. The blood lead values were for all ages and for urban, suburban and rural dwellers. A commenter claimed that, on inspection of this graphical presentation, it becomes apparent that none of the gasoline consumption variability over time is reflected in the blood lead levels. However, serious questions concerning this analysis have been raised due to the lack of a consistent blood lead analytical data base (many different studies were used) and the merging of different populations and ages.

Two additional studies consisted of: (1) a United Kingdom study of blood lead levels between 1967–1969 and 1978–1980 where there was an apparent decline in blood lead levels in children but no apparent change in gasoline lead consumption; and (2) a Frankfurt, Germany, study on adults where blood lead levels declined 10 percent while gasoline lead usage declined 67 percent of the period 1975–1978

On balance, after reviewing all of the studies mentioned and the record of this proceeding, EPA is persuaded that environmental exposure to lead from gasoline is a significant contributor to total lead exposure of the population. While the statistical analyses may have some methodological flaws, EPA is convinced that they do provide an important qualitative indicator of source contribution and therefore strengthen EPA's conclusion. However, because of the problem of unaccounted for variation in other source variables, any quantitative use of these analyses must be made with caution.

(b) Is Gasoline Lead a Major Source of Dirt and Dust Lead? The issue of the contribution of gasoline lead fallout into dirt and dust is significant because lead exposure by the ingestion of lead-contaminated dust and dirt is believed to be one of the primary pathways of gasoline lead into the human body, particularly children. Children are believed to be particularly susceptible because of hand-to-mouth activity. Should gasoline lead prove not be be a major contributor to lead in dirt or dust, then a reassessment of the importance of gasoline lead to total human exposure to lead would have to be made.

The submitted comments generally cited older studies which had been previously reviewed by EPA during the lead ambient air quality standard-setting process. The conclusion of the criteria document and EPA during the lead NAAQS development period was that there existed a surprisingly consistent relationship between percentage increase in mean blood lead levels (3–6 percent) for a twofold increase in mean soil lead levels. EPA also found that automobile emissions were sufficient to increase air and nearby soil concentrations of lead as well as blood lead levels in children and adults. Finally, EPA was also concerned that lead particle deposition can lead to general contamination of the environment and contamination of surface waters and foodstuffs. After examination of these comments, EPA has decided that no change is required in its previous conclusions on the older studies.

Some recent studies were also cited in comments. These included an Omaha, Nebraska, study where multiple regression analysis was performed to determine the combined effect of air, soil, and house dust lead on blood lead. Because of high intercorrelation it was not possible to ascribe a discrete contribution to any of the variables. However, the combined effect of the variables was to explain 21 percent the blood lead variance. This study did not include gasoline lead emissions as a variable; thus, very little can be determined on the relationship between gasoline lead emissions and airborne lead, soil lead, and dust lead.

Also cited was an unpublished stable lead isotope study which examined samples of blood, air, gasoline, soil (indoors and outdoors), paint (exterior and interior), magazine paper, and freeway dust. Analysis of the samples found that the lead in the blood of the children sampled (10) had a lead 208 isotope/lead 206 isotope ratio close to both that of paint from exterior walls and surface soils in the children's play area. This result was interpreted to mean that the source of lead in the surface soil was the lead in paint and that the source of the lead in the blood

was ingestion of lead-based paint, directly, or indirectly by the ingestion of surface soil. The study represents a step in the development of techniques to determine environmental sources of lead exposure. However, a close reading of the study indicates that it was designed more as a demonstration of the technique's usefulness on a case-by-case basis rather than as an attempt to characterize the actual sources of lead on a nationwide or even a local areawide basis. While lead-based paint may have been the primary source of lead in the ten individual cases studied, the analysis offers no information on the source of lead in areas where there is no lead-based paint.

EPA is not persuaded that the more recent studies cited are sufficient to overturn its previous conclusions on the potential importance of soil and dust ingestion as a pathway for human exposure to gasoline lead.

(c) *The Relationship between Lead Phasedown and Ambient Air Lead Levels.* Numerous comments were received on the issue of changes in air lead levels that would occur as a result of rescission or substantial modification of the lead phasedown program and the resultant changes in blood lead levels. Most of those comments advocating a major relaxation of the lead phasedown program based their air quality/health-related arguments on the belief that the ambient air lead standard is being achieved and that use of unleaded gasoline by itself is therefore sufficient to protect against adverse health effects. Those comments arguing against a change in the lead phasedown standard generally argued that: (1) inhalation of airborne lead is only one pathway of lead from gasoline into humans, and controlling it alone is not sufficient protection; and (2) any change in lead in the environment towards increasing mean blood lead levels would be deleterious to pediatric health.

The Agency notes that serious questions have been raised concerning the adequacy of past ambient lead air quality data. The Agency has reason to believe that most lead monitors in the past were not located in a manner designed to measure maximum concentrations of lead in the ambient air.

On September 3, 1981, the Agency issued final regulations on the siting of lead monitors by state and local air pollution control agencies. These regulations establish standards for key siting factors for lead monitors such as height, setback from adjacent roadway(s), and traffic volume of adjacent roadway(s). The regulations require that national air monitoring sites (NAMS) for lead be operational in large urban areas by July 1, 1982. The first quarter of monitoring data from these sites will not be submitted to EPA until December 31, 1982. State and local air monitoring sites (SLAMS) are required to be operational in certain other areas by January 1, 1983. A summary of the first year of SLAMS monitoring data is due January 1, 1984.

Furthermore, the argument for rescission or relaxation based on prediction of future ambient levels is premised on the belief that attainment of the air quality specified by the NAAQS for lead is sufficient to protect against all human exposures resulting from gasoline lead emissions. As noted below, EPA has already begun the process of reexamining the criteria document and NAAQS for lead required by sections 108 and 109 of the Act, 42 U.S.C. 7408 and 7409. Whether the NAAQS account appropriately for exposures resulting from soil and dust contaminated by fallout from airborne lead is likely to be an issue in that review. This example serves to illustrate that air quality is only one aspect of the entire environmental lead exposure problem. The fact that current monitored measurements show significant improvement in lead air quality and that projections show maintenance of the improvement trend is in part an attestation of the effectiveness of the lead air quality program and the air quality impact of lead in gasoline controls. It is not, however, sufficient to remove EPA's concern over the impact of total environmental loadings of lead, including exposures that may result from contaminated soil, dust, water, or foodstuffs. For these reasons, EPA shares the view of many commenters that increases in exposure resulting from increased use of lead in gasoline should be avoided.

It should be noted that the statutory basis and purpose of the lead phasedown regulations and NAAQS for lead are different, though related. NAAQS promulgated under Section 109 of the Act are ambient standards, based solely on consideration of health and welfare effects of a given pollutant, and are attained by specific control measures adopted by states. In adopting such measures, the states may take into account emission reductions required by certain uniform national regulations, directed to particular categories of emission sources and based on particular criteria (e.g., consideration of economic and technical feasibility) specified in other sections of the Act. The principal examples of such regulations are the standards for certain auto-related pollutants promulgated under Section 202 of the Act and the standards for control of lead in gasoline promulgated under Section 211. Because the number and types of sources may vary from state to state, the degree of control required by such uniform national standards may represent more or less control than is required to attain NAAQS is a given state. In that sense, instances of "over-control" are inherent in the statutory scheme, due to the congressional judgment that NAAQS should not be the only basis for control of air pollution and that it is sensible to require uniform national treatment of certain categories of emission sources. For these reasons, there may be no precise relationship between the NAAQS for a given pollutant and uniform standards for particular sources of that pollutant.

4. *Neurobehavioral Effects at Low Level Exposure.* A highly controversial issue raised at the public hearing and debated in the comments concerned studies involving the effects of low level lead exposure on intelligence or behavior of children.

EPA extensively reviewed the literature on the neurobehavioral effects of lead in the lead criteria document. It was recognized then that the issue of whether apparently asymptomatic children experience subtle neurobehavioral deficits at blood lead levels in the 40 to 80 μg Pb/dl range was one of a significant controversy. Nevertheless EPA concluded, based on a critical review of the literature, that blood lead levels of 50 to 60 μg Pb/dl are likely to be sufficient to cause significant neurobehavioral impairments for at least some apparently asymptomatic children.

A significant number of new studies, reviews, and critiques published in this area since issuance of the criteria document were submitted or cited in comments. Most of these have been submitted to the docket of this proceeding. In general, these submissions were offered as support for the existence of neurobehavioral effects of low level lead exposure (blood lead levels less than 30 μg Pb/dl), or offered as refutations or criticisms of those studies showing such effects. These comments included the following submittals:

(a) The results of two dentine (tooth) lead studies, one published and the other unpublished. The studies correlated high and low dentine lead groups of children with indicators of intelligence, behavior, or fine motor function. Attempts were made to measure and control for various non-lead covariates, "confounding

variables" such as parental intelligence, which might explain some or all of the intellectual deficits. A general conclusion made by the studies is that the low dentine lead group had better performance on a variety of intellectual or behavioral tests. Only one study provided any blood lead data. Two additional studies not fully reported or published were cited in comments: one supported the proposition that on the basis of dentine lead levels there is a neurobehavioral effect; the other was cited both to support and reject the existence of any neurobehavioral effects.

(b) Several critical assessments of the dentine lead studies. These critiques, in the form of comments or published review of the literature on low level lead exposure effects on neurobehavior, questioned the methodology, analytical procedure, statistical analysis, and usefulness of any conclusions from these studies. In turn, EPA received criticisms of these critiques.

(c) An unpublished study which examined the relationship between hair lead content, intelligence tests, school achievement, and motor impairment found a significant negative correlation between hair lead and intellectual functioning.

(d) An electrophysiological study which suggested that low blood lead levels in the range of 10–15 μg Pb/dl significantly alter the electrical activity of the brain in young children.

What this body of comments represents is essentially two positions. One argues that there is evidence of lead-exposure neurological effects at blood lead levels well below the 40–60 μg Pb/dl range identified by EPA in the criteria document. This argument suggests that EPA's maximum safe blood lead levels for the individual (30 μg Pb/dl) or for the geometric mean (15 μg Pb/dl) may require reassessment to lower levels. The other group of comments strongly criticizes the usefulness of any conclusions from the dentine lead studies showing neurobehavioral effects. No criticisms of the hair lead study or the electrophysiological study were received.

The EPA maximum safe blood lead levels developed in the criteria document were based on the adverse effect of inhibition of hemoglobin synthesis. The new data on neurobehavioral effects are suggestive of a potentially lower maximum safe level of blood lead. It has been suggested in the criteria document that the effects of lead exposure are a continuum starting with both biochemical and neurological effects at low levels of exposure and continuing to death at high exposures. Thus, the newly reported neurobehavioral effects, if in fact validly observed phenomena, are additional elements in this continuum.

However, the usefulness of the dentine lead studies and the hair lead study is somewhat mitigated by the lack of adequate blood lead level dose response data, which makes it extremely difficult to determine levels of exposure comparable to the data for inhibition of hemoglobin synthesis. The electrophysiological study did quantify effects at a blood lead range of 10–15 μg Pb/dl; additional information will be needed to confirm this effect. Thus, whatever the validity of the criticisms of the methodological or analytical failings of the neurobehavioral effects studies, EPA can presently only judge the studies qualitatively.[2] In this sense, the studies tend to confirm the Agency's prior judgment on the need to take all reasonable steps to control lead emissions. This judgment is in direct agreement with the NAS 1980 recommendation that a serious effort be made to reduce the baseline level of exposure to lead for the general population of the United States.

E. Summary and Conclusions

After a thorough review of the health-related information submitted to the record of this proceeding, EPA concluded that there are insufficient health grounds upon which a rescission or relaxation of the lead phasedown program can be based. The rationale for the original decision by EPA to regulate the use of lead in gasoline has been reexamined and no new information has been submitted which would warrant a shift in the original rationale to control lead in gasoline. Insufficient evidence has been presented to show that a health problem related to environmental exposure to lead, particularly in urban areas, does not continue to exist. Nor has it been shown that gasoline lead is not a major source of lead exposure via inhalation of air lead or ingestion of dirt or dust lead. Although significant progress has been made since the early 1970's in reducing gasoline lead use, such progress of itself does not warrant rescission or relaxation of the lead phasedown program from today's level of control. Rescission or relaxation would result in increased lead emissions and therefore be contrary to the premise of the lead phasedown program that lead emissions should be controlled to the extent possible.

[2] EPA has already initiated a large-scale effort to review and, if appropriate, to revise the existing criteria document and NAAQS for lead required by sections 108 and 109 of the Clean Air Act, 42 U.S.C. 7408 and 7409. The possibility of neurobehavioral effects of low-level exposures to lead will be examined further in that process and may be illuminated by further medical studies in the interim.

IV. Economic and Energy Considerations

EPA's estimates of the cost of compliance with the current 0.5 gpg lead content of gasoline standard are contained in several reports prepared for the Agency by Sobotka and Company, Inc. (SCI), which have been included in the rulemaking docket. These reports show that, in 1983, the estimated cost of compliance for large refineries (as currently defined) will be approximately $76 million, about one-tenth of a cent per gallon for gasoline produced by these refineries. Since capital expenditures to meet the 0.5 gpg standard have already been made by this group of refineries, 1983 savings for these refineries which would result from rescission of the standard would be equal to this amount of increased operating costs. These cost savings largely result from decreased refinery energy usage. Using the Department of Energy's refinery model, SCI has estimated that compliance with the current 0.5 gpg standard by all refineries (large and small) after October 1, 1982, would result in increased oil consumption of 15,000 barrels (crude oil equivalent) per day in 1983. These costs savings would decrease each year as more unleaded gasoline is produced.

For small refineries (as currently defined), SCI estimates that a maximum of $85 million in new capital expenditures for octane-improvement facilities would be required to comply with the 0.5 gpg standard. If previously planned investment has occurred in the industry since January 1982, the actual savings from rescission would be less. Due to the increasing demand for unleaded gasoline, expenditures for these facilities would be required to be made later in the decade, even in the absence of lead phase-down regulations. Thus the savings in this area for small refineries would be those resulting from deferral of these expenditures. The annualized capital charge for these expenditures would be approximately $21 million in 1983. Increased operating costs for compliance with the 0.5 gpg standard would be about $28 million in 1983. Thus, if the 0.5 gpg standard were rescinded, small refineries would realize a total savings of about $49 million in 1983.

Total savings that would be achieved by all refineries in 1983 by rescission of the lead phasedown standard equal

approximately $125 million, a little more than one-tenth of a cent per gallon of gasoline produced in the United States. Cost savings from a relaxation of the standard would, of course, be less.

In comparison to the cost of certain stationary source controls that EPA requires in urban areas, the cost per ton of lead removed from the environment by the phasedown regulations is quite low. The cost-effectiveness of the 0.5 gpg standard for large refineries is $2,860 per ton (1983). Since gasoline consumption is the principal source of airborne lead in most urban areas, the Agency believes that the costs of compliance with this regulation are reasonable.

Furthermore, in a separate notice of proposed rulemaking which appears elsewhere in this issue of the **Federal Register**, EPA is proposing to replace the present 0.5 gpg standard for the lead content of all gasoline with a 1.10 gpg standard for leaded gasoline for all refineries except refineries in existence prior to October 1, 1976, with an average daily production of 10,000 barrels of gasoline per day or less. A 2.50 gpg standard for leaded gasoline is also being proposed for this latter group of refineries. Although EPA is inviting comments on the appropriateness of the 1.10 and 2.50 gpg standards, EPA estimates that the proposed standards for the lead content of leaded gasoline would result in a savings of $17 million in annual operating costs for all refineries over the cost of compliance with the 0.5 gpg standard for all gasoline in 1983. An additional savings would result from the deferral of capital expenditures of up to $85 million by the smallest refineries, resulting in savings of up to $21 million in 1983 in annualized capital charges. The total savings in 1983 for these refineries would be up to $38 million.

V. Conclusions

Upon a review of the testimony and public comments submitted in response to the February 22, 1982, notice announcing the EPA's review of the lead phasedown program, the Agency has decided that it will not relax or rescind the overall standard of 0.5 gpg and is therefore withdrawing that portion of the notice of proposed rulemaking. A thorough review of submittals to the rulemaking docket has persuaded EPA that rescinding or relaxing the existing regulation would result in increased lead emissions, that environmental lead exposure continues to be a national health problem and that lead from gasoline is a significant contributor to this problem through its presence in the air, dirt and dust. Thus, EPA is convinced that a relaxation of the standard for lead in gasoline would be conterproductive to the alleviation of this serious national problem. The potential small cost savings and reductions in oil consumption which would result from rescission or relaxation of the 0.5 gpg standard, while not insignificant, have not been shown to be an adequate justification for rescission or relaxation in light of the potential adverse impact on public health. In other rulemaking notices published in today's **Federal Register**, the Agency is taking or proposing actions which would reduce the economic and energy costs associated with the lead phasedown program while not allowing the consumption of more lead than the present regulations permit.

VI. Additional Information

On April 22, 1982, EPA's Science Advisory Board (SAB) was briefed by the Agency on the February 22, 1982, notice announcing review of the lead phasedown program. As a result of this briefing, the SAB asked to review the scientific or technical basis for any decision to relax or rescind the 0.5 gpg standard. As indicated above, EPA has decided not to relax or rescind the standard and is withdrawing that portion of the February 22 proposal. For these reasons, I believe SAB review of the February 22 proposal is unnecessary. However, EPA is proposing amendments to the current regulations as described elsewhere in this issue of the **Federal Register** and will take no further action without consulting with the SAB as to whether the Board believes review of the scientific basis for these new amendments is necessary and appropriate.

Under Executive Order (E.O.) 12291, EPA must determine whether this notice is a "major rule" requiring preparation of a regulatory impact analysis. This action is not a major rule because it will not cause any adverse effects on the economy, since it merely withdraws a portion of a proposal to change existing rules and imposes no new costs or burdens on any person.

This action was submitted to the Office of Management and Budget (OMB) for review under E.O. 12291. Any comments from OMB and any EPA responses are available for public inspection at the Central Docket Section, U.S. Environmental Protection Agency, West Tower, 401 M Street, S.W., Washington, D.C. 20460 (Docket A–81–36).

List of Subjects in 40 CFR Part 80

Fuel additives, Gasoline, Motor vehicle pollution, Penalties.

Dated: August 23, 1982.

John E. Daniel,

Acting Administrator.

[FR Doc. 82–23526 Filed 8–24–82; 3:23 pm]

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40 CFR Part 80

[AEN–FRL–2182–7(b)]

Regulation of Fuels and Fuel Additives

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On February 22, 1982, EPA issued two notices of proposed rulemaking. The first notice announced that the Agency was considering whether conditions now justify rescission or modification of the regulations requiring refineries to meet a 0.5 gram per gallon (gpg) standard for the average lead content of gasoline. This notice listed various regulatory options under consideration by the Agency, ranging from retention of the current standard to its rescission. Elsewhere In this issue of the **Federal Register**, the Agency is announcing the withdrawal of certain portions of that notice. The second notice issued on February 22, 1982, proposed the suspension of the date on which small refineries would otherwise be required to meet the 0.5 gpg standard, October 1, 1982. Elsewhere in this issue of the **Federal Register**, EPA is taking final action to suspend that date for small refineries, for a one-month period, from October 1, 1982 through October 31, 1982.

Based on a review of comments and testimony concerning the February 22, 1982, notices, EPA believes that reductions in future lead usage are necessary. In this notice, the Agency is proposing to replace the present 0.5 gpg standard for the average lead content of all gasoline with a two-tiered standard for the lead content of leaded gasoline. Larger refineries under the proposal would be required to meet a standard of 1.10 gpg while certain smaller refineries would be subject to a 2.50 gpg standard. This notice proposes to redefine a small refinery as a facility producing less than 10,000 barrels of gasoline per day which was in existence prior to October 1, 1976, and which is not owned or controlled by a large refiner. This definition will significantly reduce the number of facilities which presently qualify for treatment as small refineries. This notice also proposes that imported gasoline be subject to a 1.10 gpg standard for the lead content of leaded

gasoline. Both domestic refineries and importers would be allowed to average their lead usage so long as the applicable standards are not exceeded.

DATES: Under section 307(d)(5) of the Clean Air Act, EPA will provide an opportunity for oral presentations of data, views, or arguments concerning the regulations proposed in this notice. Accordingly, a public hearing will be held on September 7–8, 1982. Comments should be submitted by October 8, 1982, which is 30 days after the hearing date.

ADDRESSES: Comments should be sent to Docket No. A–81–36, Central Docket Section (A–130), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The docket is located in the West Tower Lobby of EPA, 401 M Street, SW., Washington, D.C., and may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying. This is the docket of the February 22, 1982, proposed notices. Resubmittal of previously submitted materials is not necessary since all information in the docket will be considered in development of the final rule. Commenters are therefore encouraged to submit only on the new aspects of this proposal. The hearing will be held on September 7–8, 1982 at the Hyatt Arlington (at Key Bridge), 1325 Wilson Boulevard, Arlington, Virginia, Ravensworth Ballroom, 9 a.m.–5 p.m.

FOR FURTHER INFORMATION CONTACT: Richard G. Kozlowski, Director, Field Operations and Support Division (EN–397), EPA, 401 M Street, SW., Washington, D.C. 20460, Telephone (202) 382–2633.

SUPPLEMENTARY INFORMATION:

Introduction

On February 22, 1982, EPA issued two notices of proposed rulemaking. The first notice (hereinafter the "initial proposal notice") announced that the Agency was considering whether conditions now justify rescission or modification of the regulation requiring all refineries to meet a 0.5 gpg standard for the average lead content of gasoline. That notice listed various regulatory options under consideration by the Agency, ranging from retention of the current standard to its rescission. A summary of that notice of proposed rulemaking is contained in a notice published elsewhere in this issue of the **Federal Register**, which announces the withdrawal by the Agency of portions of that document (hereinafter the "withdrawal notice"). The withdrawal notice also includes a brief history of the lead phasedown program.

The second notice of proposed rulemaking issued on February 22, 1982, proposed the suspension of the October 1, 1982, date on which small refineries would otherwise be required to meet the 0.5 gpg standard (referred to herein as the "proposed suspension notice"). A summary of that notice is contained in another notice published elsewhere in this issue of the **Federal Register**, which takes final action to suspend the October 1, 1982, date until October 31, 1982 for small refineries (hereinafter the "final suspension notice").

In response to the two February 22, 1982, notices of rulemaking, over 700 written comments were submitted prior to the close of the comment periods for these notices. In addition, the Agency received the oral testimony of 81 witnesses at a public hearing held on April 15 and 16, 1982, in Arlington, Virginia. The Agency has carefully considered these comments and testimony, as well as comments received after the close of the comment periods, in developing the regulatory documents published in this issue of the **Federal Register**, including the proposed regulations described in this notice.

Based on a review of the comments and testimony, as well as on information developed by the Agency, EPA is today proposing specific regulations which would replace the present regulatory program governing the lead content of gasoline. The Agency believes that the long-run impact of this program would be a greater reduction in lead usage than would occur under the existing program. In place of the present standard of 0.5 grams of lead per gallon (gpg) of all gasoline (leaded and unleaded) produced by a refinery, the Agency is proposing a two-tiered standard regulating the lead content of leaded gasoline only. Under the proposal larger refineries would be subject to a standard of 1.10 gpg for leaded gasoline, while small refineries (redefined as discussed below) would be subject to a 2.50 gpg standard for leaded gasoline.

This notice also proposes to amend the definition of a small refinery in a manner which would reduce the number of facilities eligible for the less stringent 2.50 gpg standard over the number currently eligible for small refinery treatment. Under this proposal, a small refinery would have to meet four criteria for eligibility: (1) It must have been in operation or under construction prior to October 1, 1976; (2) it must have been in operation during at least two quarters in the past year; (3) its most recent quarterly production of gasoline must have been no more than an average of 10,000 barrels per day; and (4) it must not be owned or controlled by a refiner with a total combined production during the most recent quarter of 70,000 barrels per day or more. The Agency estimates that 75 facilities would be eligible for small refinery treatment under the proposed definition, compared to 159 such facilities eligible, as of March 31, 1982, under the current definition.

Another major element of the proposed regulations is a requirement that the average lead content of imported leaded gasoline sold or offered for sale not exceed 1.10 gpg, the same lead content standard that is proposed for all but the smallest refineries. In thus regulating imported gasoline in the same manner as domestic gasoline, the proposed regulations would end an inequity contained in the present regulations, since imported gasoline is not currently subject to any restrictions as to lead content. Importers of leaded gasoline would be permitted to average the lead content of all gasoline sold or offered for sale during a calendar quarter, thus allowing them the same averaging period as refineries.

The final major element of the proposed regulations is a provision that would permit two or more refineries, whether owned by the same refiner or not, to average their lead usage over a calendar quarter. Importers of leaded gasoline would be treated as refiners for purposes of this averaging provision.

Environmental Impacts of Proposed Rulemaking

As discussed below, EPA's proposed standards to regulate the amount of lead in leaded gasoline will result in a steady decline in the amount of lead used in gasoline nationally. Continuation of the present 0.5 gpg standard for all gasoline would allow the addition of ever greater amounts of lead to each gallon of leaded gasoline (up to the level at which it would no longer be economically justified) as the amount of unleaded gasoline produced by a refinery increases. For example, if a refinery presently makes 50% leaded gasoline and 50% unleaded gasoline, in order to meet a 0.5 gpg standard for its total gasoline production it would be able to add up to 1.0 gram of lead to each gallon of leaded gasoline. If its unleaded gasoline share were to increase to 75%, it would be able to add up to 2.0 grams of lead to each gallon of leaded gasoline. Under a standard for leaded gasoline only, this increase in lead additive usage per gallon of leaded gasoline would be prevented.

The Agency also notes that there are large variations among cities in the lead content of leaded gasoline. In an October 15, 1981, Motor Vehicle

Manufacturers Association survey, the lead content of leaded gasoline was found to range from 0.550 gpg in Las Vegas to 1.413 gpg in Boston. A leaded gasoline standard would provide more equitable health protection throughout the country since it would set an upper limit on the average amount of lead that could be contained in any gallon of leaded gasoline sold in any area.

EPA believes that an overall continued reduction in the amount of lead emissions due to the use of lead additives in motor gasoline is warranted on the basis of public health considerations. This conclusion has been made on the basis of a review of the comments and testimony submitted in response to the two February 22, 1982, notices concerning proposed revisions to the lead phasedown program. An analysis of the health and air quality issues raised in response to those notices is published elsewhere in this issue of the **Federal Register** in the withdrawal notice. That analysis is incorporated by reference into this notice of proposed rulemaking.

As noted in that analysis, a principal finding that EPA made in the original lead phasedown rulemaking was that a reduction of gasoline lead emissions should be required to the extent possible. That finding, which was based on the public health risk caused by these emissions (particularly for young children) was supported by the findings and recommendations of the 1980 report by the National Academy of Sciences, "Lead in the Human Environment." Moreover, as discussed in the withdrawal notice, the evidence submitted to date does not provide a basis for reversing the Agency's original finding and, in fact, suggests that further action by EPA to reduce gasoline lead emissions may be prudent. As discussed below, the leaded gasoline standards proposed in this notice would reduce future gasoline lead emissions more rapidly than would occur with the current average gasoline standard. For these reasons EPA believes that today's proposal is an appropriate means by which to carry out its original objective of reducing gasoline lead emissions to the extent possible.

EPA invites submission during the comment period of comments bearing on the appropriateness of these health-related conclusions.

Economic and Energy Impacts of Proposed Rulemaking

After examining the economics of limiting lead emissions and the distribution of costs among various groups of refineries, EPA believes that today's proposal would protect the populace in the most cost-effective manner.

EPA futher believes that the proposed standard directly regulating the lead in leaded gasoline would be the most equitable for all gasoline producers. It would eliminate the inequities in the present system that allow a refinery producing greater amounts of unleaded gasoline to add more lead to its leaded gasoline than a refinery producing lesser amounts of unleaded gasoline. For example, a refinery producing 50% leaded and 50% unleaded gasoline would be able to add 1.0 gram of lead to the leaded gasoline and still be able to comply with a 0.5 gpg pool average standard. A refinery producing 75% leaded and 25% unleaded would only be able to add 0.67 gram of lead to its leaded gasoline in order to comply with the same standard. As noted above, production of even greater amounts of unleaded gasoline, as will occur at many refineries in the future, would allow even greater lead usage per gallon of leaded gasoline than at present, under a pool average standard. Such an averaging system tends to generally benefit larger refineries, with their greater ability to produce and market unleaded gasoline, at the expense of smaller refineries. Since production of leaded gasoline through the addition of lead is more economical than production through changes in the refining process (i.e., usage of octane-boosting equipment), the present system provides a subsidy for refineries producing a larger share of unleaded gasoline. Although this subsidy was once justifiable as a means to encourage production of unleaded gasoline, the Agency believes that it is no longer necessary to provide this incentive for the production of unleaded gasoline. Market forces will more efficiently produce the same result.

A standard for leaded gasoline is also more cost effective than an average standard for all gasoline at any overall emission level. This is because there is a declining value to incremental lead additives as additional amounts are added to gasoline. A pool average standard results in some refineries being allowed to put more than the average amount of lead in leaded gasoline while others are restricted to less than the average. The cost savings of the former are less than the extra cost to the latter because of the declining marginal value of lead. Therefore, a leaded gasoline standard is less expensive for the industry as a whole, at the same level of lead emissions.

EPA originally proposed such a standard in 1973, but changed to an average standard for all gasoline in the final regulations in order to encourage the production of unleaded gasoline. 38 FR 33734. At that time, unleaded gasoline was a new, relatively unavailable product whose availability was further constrained by gasoline price controls. Price controls have since been eliminated and now, almost a decade later, unleaded gasoline represents more than 50% of the gasoline market. EPA believes that it is no longer necessary to use less cost-effective regulation of lead in gasoline to encourage the production of unleaded gasoline. EPA's contractor, Sobotka and Company, Inc. (SCI), has quantified the cost advantage of a leaded gasoline standard and this analysis has been included in the rulemaking docket. This analysis confirms the Ageny's judgment of the lower overall cost of such an approach by means of modeling using the Department of Energy's Refinery mode. Operating costs will be $17 million less in 1983 with the proposed 1.10 gpg and 2.50 gpg leaded standards than with the present 0.5 gpg average standard.

A major issue raised in the February 22, 1982, rulemaking notices was the treatment of small refineries versus large refineries. A related issue raised was the incentive that the structure of the current regulations may have created for new refineries, that otherwise would not have found it profitable to enter the market, to do so. EPA is sensitive to the comments of those large and small refiners who have already made investments to comply with the current standards concerning the adverse and possible unfair competitive effects of allowing their competitors to meet less costly standards. The Agency is also sensitive to the need to avoid unnecessary expense in meeting environmental standards, issues which were raised by other small refiners, the Small Business Administration and the Office of Management and Budget.

Adoption of a leaded gasoline standard would address these concerns, as it would substantially lower costs for small refineries. The SBA and several small refiners have recommended such an approach. The SCI analysis indicates that if a 1.10 gpg standard were applied to all small refineries, as currently defined, approximately 25% of the operating and capital costs of meeting the 0.5 gpg average standard would be saved, provided that inter-refinery averaging were allowed. This represents a savings of $20 million of the $85 million capital cost of compliance with the 0.5 gpg average standard. However, under this proposal the 1.10 gpg leaded

standard would only apply to refineries producing more than an average of 10,000 barrels of gasoline per day (bpd). Other data developed by SCI, also included in the docket, indicate that most of these refineries already have the capacity to meet the current 0.5 gpg standard. A 1.10 gpg standard for leaded gasoline would be easier and less expensive for refineries with an average daily production of more than 10,000 bpd to meet than the 0.5 gpg average standard, and EPA anticipates that little or no capital investment would be required by them. These refineries are also relatively sophisticated and should have operating costs similar to refineries now covered by the 0.5 gpg standard. Refineries producing more than 10,000 bpd also produce and sell most of their gasoline in urban areas. Many of these refineries have very high local market shares, and more lenient standards for them could result in excessive lead exposure for the relatively concentrated urban populations.

The refineries with a production of less than 10,000 bpd are characterized by a more rural production and consumption pattern. The lower population density of these areas results in lower total emissions in such areas, as well as fewer people exposed to these emissions. These refineries are also substantially less sophisticated and would find it more expensive to comply. Nearly all of the $65 million in capital equipment investment needed to comply with a 1.10 gpg standard would fall on these refineries. Keeping them at a 2.50 gpg leaded standard would eliminate this cost.

A related concern is the impact on energy usage of various regulatory options. EPA has had the energy costs of the current regulations and this proposal analyzed by SCI using the Department of Energy's refinery model. This analysis shows that a uniform 0.5 gpg standard after October 1982 would result in increased petroleum consumption of 15,000 barrels per day in 1983. A 1.10 gpg leaded standard would have an essentially identical impact. Allowing the smallest refineries to meet a higher 2.50 gpg leaded standard, as proposed, would result in the consumption in 1983 of approximately 2000 barrels per day less than a uniform 1.10 gpg leaded standard or a uniform 0.5 gpg average standard.

Proposed Leaded Gasoline Lead Content Standard

Based in part on information and views received during the comment period on the February 22, 1982, proposed notices, EPA is proposing a substitute for the current system of total pool averaging which permits a refinery to average its lead usage over all grades of gasoline produced (including unleaded) in a three-month period. Instead, this proposal would establish ceilings on the lead content of leaded gasoline produced during a given calendar quarter. Larger refineries would be subject to a standard of 1.10 gpg, while smaller refineries (as redefined) would not be permitted to exceed a standard of 2.50 gpg. Unleaded gasoline would continue to be subject to the requirements that it not contain any lead additives and that it not include more than trace elements of other lead (no more than 0.05 gpg).

EPA agrees with a number of comments suggesting that a program that would impose a flat limit on added lead on a per-gallon basis would be less burdensome to the regulated community. It would be simple and effective, both from an enforcement and from a reporting standpoint. As outlined above, this type of program would eliminate many of the inequities of the present program and establish parity among all entities that sell or manufacture leaded gasoline. The principal economic advantage of such a system is that it would not discriminate against any entity which does not produce unleaded gasoline with which to reduce the average gram per gallon lead content of its output. Thus, the different entities that sell leaded gasoline would be able to compete on an equal footing without the inequity that now exists, which permits a refiner who produces a larger percentage of unleaded grades to produce leaded gasoline with a greater lead content. As a greater portion of a refiner's production shifts to unleaded gasoline, the lead content of leaded gasoline could be commensurately increased under the current system. The proposed system would preclude such increases in lead in leaded gas. Thus the principal health advantage of the proposal is that total lead emissions would decrease over time. The Agency's proposal of a standard applicable only to leaded gasoline is based on the premise that the use of unleaded gasoline will continue to increase in the future. Should this increased usage not continue as expected (for example, due to development of a lead-tolerant catalytic converter for motor vehicles), EPA will consider amendments designed to prevent increased total usage of lead additives, or other appropriate actions. The Agency invites comments during the comment period on appropriate means to deal with this contingency, should it arise.

An appropriately set lead ceiling should cause a more rapid lead emission reduction than the present averaging system without additional capital costa. Moreover, such a ceiling would also allow the market to control the pace of future reductions. Additionally, the lead cap approach would be simple to administer: every refinery would be required to maintain its leaded gasoline lead content at or below a single number for that class of refinery.

As indicated above, the Agency is proposing to set the standard for large refineries at 1.10 grams per gallon of leaded gasoline and for small refineries at 2.50 grams per gallon of leaded gasoline, measured as a quarterly average. This would limit the total amount of lead in leaded gasoline to the current level. These proposed standards were determined in the following manner. As of April 1982, Ethyl Corporation estimated the percentage of unleaded gasoline sold and produced nationwide to be 50.5% of all gasoline, with 49.5% leaded. DuPont Corporation estimated the current percentage of unleaded gasoline as 58.4% of all gasoline, with 41.6% leaded. The Energy Information Administration of the U.S. Department of Energy reported a market split of 51.4% unleaded 48.6% leaded for the first quarter of 1982. Assuming that this split continues, averaging of these figures results in an estimate that 53.4% of all gasoline produced and sold on October 1, 1982, will be unleaded, with 46.6% leaded. It is therefore estimated that refineries on the average will use on October 1, 1982, about 1.073 grams of lead per leaded gallon (.5 gpg pooled average divided by .466, the fraction of all gasoline that is leaded). A standard of 1.10 grams per gallon of leaded gasoline would reflect this approximate current level of lead usage.

For small refineries, EPA data show that for the first quarter of 1982, small refineries (as defined prior to today) in the 0–5,000 bpd production category produced 993,366,000 gallons of gasoline while subject to a 2.65 gpg pooled standard. During the same period, small refineries in the 5,001–10,000 (bpd) production category produced 497,147,000 gallons of gasoline while subject to a 2.15 gpg pooled standard. These two groups, most of which would be subject to a more lenient standard other refineries under these proposed regulations, made a total of 1,490,513,000 gallons of gasoline in the first quarter of 1982. The group currently subject to the 2.65 standard produces approximately two-thirds of the gasoline of the combined groups, while the group subject to the 2.15 standard produces

about one-third of this gasoline. Under the assumption that the two groups make almost exclusively leaded gasoline, these same proportions of gasoline have been used to derive the standard for refineries in the 10,000 barrel or less per day production groups at 2.5 grams per gallon of leaded gasoline (⅔(2.65) + ⅓(2.15) = 2.48 gpg).

Nevertheless, EPA recognizes that these estimates are approximate, and therefore specifically invites comments on the appropriateness of these numerical standards. The intent of this proposed regulation is to impose standards which, in the aggregate, as of October 1, 1982, would permit no increased lead emission over the standard which would otherwise be in effect (i.e., 0.50 gpg for all refineries), and which would thereafter result in decreases in emission levels. EPA invites comments on whether the 1.10 gpg standard is the correct value or whether some other number such as 1.00 or 1.20 would be more appropriate. Similarly, EPA is concerned that the 2.50 gpg standard for small refineries may overcompensate for any disproportionate economic impacts created by gasoline lead regulation. Therefore, EPA invites comments on whether a standard such as 2.15 gpg (currently the pooled standard for small refineries in the 5,001–10,000 bpd production category) may be more appropriate. Any comments should address both standards, recognizing that EPA intends that the effect of both standards taken together not lead to any increased lead usage beyond what would have resulted from imposition of a 0.50 gpg pooled standard for all refineries.

Effects on Total Lead Usage

As part of its evaluation of these proposed regulations, the Agency has made estimates of the total amount of lead contributed to the environment by gasoline in each of the years 1982 through 1990. Projections were made for both the current lead phasedown regulations (in which the 0.5 gpg pooled standard becomes effective for the entire industry on October 1, 1982) and the regulations proposed in this notice. These projections were based on gasoline volume forecasts made by the DuPont Corporation. DuPont's forecasts included estimates of the total gasoline volume for each year along with the expected demand for leaded gasoline.

Since the proposed regulations differentiate between large and small refineries, it was necessary for the Agency to estimate the proportion of total gasoline volume produced by the small refineries (as proposed to be redefined in this notice). Based on information collected by the Agency, this proportion was found to be approximately four percent of the total volume as of the first quarter of 1982. For purposes of the projections made by the Agency, this proportion was assumed to remain constant throughout the period for which estimates were made. Even though the total amount of leaded gasoline will decrease in future years, it is still expected that 11% of gasoline produced in 1990 will be leaded. Since much of this will be for farm use and many of the small refineries are in rural areas, it is not unreasonable to assume that these refineries will supply a major portion of the leaded market.

The results of the Agency's projections are shown in Table 1. The first two columns of the table are taken from DuPont's submission at the April 1982 public hearings on the previous proposals. Small refinery leaded gasoline volume, presented in column 3, equals 4% of total gasoline volume (column 1). This percentage is based on the assumption that small refineries (as proposed to be redefined in this notice) would produce only leaded gasoline under the proposed regulations. Large refinery leaded gasoline volume, presented in column 4, as derived by subtracting small refinery leaded production from total leaded production.

The total lead usage under the current regulations, presented in column 5, is derived by multiplying 0.5 grams per gallon by the total gasoline volume (column 1) for the period October 1, 1982, through the end of 1986. For the years 1987 through 1990, the share of the market occupied by leaded gasoline is projected to fall to a level whereby refineries will be able to add an economically optimal level of 2.5 grams of lead per gallon of leaded gasoline and still be able to comply with the 0.5 gpg pooled average standard. Thus the entries in column 5 for these years are derived by multiplying the total leaded gasoline volume (column 2) by 2.5 gpg.

The total lead usage under the proposed regulations, presented in column 6, is derived by first multiplying the small refineries' share of leaded gasoline volume (column 3) by 2.5 gpg, the maximum lead usage allowed for these refineries under the proposed regulations. Secondly, the large refineries' share of leaded gasoline volume (column 4) is multiplied by 1.1 gpg, their maximum limit on lead usage under the proposed regulations. These two totals are added to determine total lead usage. (Column 6 assumes that the proposed regulation would be effective on January 1, 1983; a later effective date in 1983 would result in higher lead usage for that year.)

Column 7 shows the difference in total lead usage between the current regulations and the proposed regulations. This column shows that the proposed regulations would result in lower total lead usage than the current regulations for all years, starting in 1983. For the period 1983–1990, the proposed regulations would result in the use of 91.7 billion grams (or 100,000 short tons) of lead less than would occur under the current regulations, a reduction of 31%.

TABLE 1.—PROJECTIONS OF GASOLINE VOLUMES AND LEAD USED FOR PRESENT AND PROPOSED REGULATIONS

	Gasoline volume—billions of gallons				Total lead—billions of grams		
	Total	Total leaded	Small leaded	Large leaded	Current phase-down [1]	Proposed phase-down [2]	Difference
1983	93.8	34.0	3.75	30.25	46.9	42.7	4.2
1984	90.8	28.2	3.63	24.57	45.4	36.1	9.3
1985	87.8	23.3	3.51	19.79	43.9	30.5	13.4
1986	85.2	18.8	3.41	15.39	42.6	25.5	17.1
1987	82.7	15.5	3.31	12.19	38.8	21.7	17.1
1988	80.7	12.7	3.23	9.47	31.8	18.5	13.3
1989	79.1	10.3	3.16	7.14	25.8	15.8	10.0
1990	77.7	8.3	3.11	5.19	20.8	13.5	7.3
					296.0	204.3	91.7

[1] Assumes 0.50 gpg pooled standard effective on October 1, 1982, for all refineries.
[2] Assumes 1.10/2.50 gpg leaded standards effective on January 1, 1983.

Proposed Definition of Small Refinery

On February 22, 1982, EPA published two proposals, one to indefinitely suspend the October 1, 1982, effective date for compliance by small refineries with the 0.5 gpg standard and the other to restructure the lead phasedown regulations. (For a more complete description of these rulemakings, see the notice which withdraws a portion of that rulemaking proposal and the notice suspending the October 1, 1982, compliance date for small refineries, both published elsewhere in this issue of

the Federal Register.) Comments submitted in response to both of those proposals have been considered by the Agency in the development of this proposed rule. Two key issues were raised in regard to small refineries: 1) what facilities should be treated as small refineries; and 2) what lead content should be established for small refineries.

This notice proposes a new definition of a small refinery which includes four elements:

(1) The refinery was in operation or under construction during the one-year period prior to October 1, 1976;

(2) The refinery was producing gasoline during at least two of the quarters in the one-year period prior to June 30, 1982 (the most recent period for which information is available), as evidenced by submittal of the required quarterly lead content reports to EPA;

(3) The production rate of gasoline at the refinery during the calendar quarter for which small refinery status is claimed was no more than an average of 10,000 barrels of gasoline per day; and

(4) The refinery is not owned or controlled by a refiner with a total production rate during the calendar quarter of greater than 70,000 barrels of gasoline per day.

In proposing the first element of the small refinery definition, EPA would amend the definition of a small refinery so as to be consistent with that in section 211(g)(1)(B) of the Clean Air Act. Specifically, the definition in 40 CFR 80.2(p) would be amended to add the criterion that a refinery's gasoline producing capacity must have been in operation or under construction during the one-year period prior to October 1, 1976. In order that the exemption would only apply to currently operating facilities, a second provision would also be added limiting small refinery status to those facilities that have produced gasoline during at least two quarters in the past year (July 1, 1982 to June 30, 1982) and have reported that production to EPA as required by 40 CFR 80.20. The intent of the Agency in proposing this redefinition is to provide continuing economic relief to certain small refineries. It is not intended to provide relief to facilities that do not now produce gasoline and, therefore, the definition of a small refinery is amended to exclude these facilities.

The 1977 Clean Air Act Amendments establishing relaxed standards for small refineries refer to October 1, 1976 as a cut-off date for eligibility for those standards. (section 211(g)(1)(B)). The Act prohibits the EPA Administrator from requiring those small refineries to meet a lead content standard more stringent than the standards set forth in section 211(g)(2) of the Act before October 1, 1982. However, the Act did not preclude extending such treatment to refineries established after that time. Thus, in 1979, EPA issued regulations defining a small refinery without reference to the October 1, 1976 cut-off date, justifying that decision to extend the different standard to all small refineries on the fact that the number of small refineries had remained relatively constant between 1976 and 1979. (See the notice of suspension of compliance date for small refineries, published elsewhere in this issue of the Federal Register, for a more detailed history of the small refinery standard.)

A number of commenters suggested that the definition of a small refinery include a date by which the refinery should have been in existence in order to qualify for continued small refinery treatment. Of those making this comment, the vast majority suggested that EPA utilize the October 1, 1976, date specified in the 1977 Clean Air Act Amendments. Most of those commenters suggested tht EPA simply return to the definition of small refinery exactly as written in section 211(g) of the Act, arguing that congressional intent in enacting section 211(g) was to exempt then-existing plants from having to make large capital investments in a short period of time. Commenters cited a Senate Committee report noting that "the amendment is sharply limited. It applies only to existing small refineries * * * in operation or under construction October 1, 1976." These commenters also noted that EPA, in adopting the small refinery exemption, stated that it did not wish to expand the number of refineries eligible for the exemption but merely "to equalize the economic impact of lead phasedown between large and small refineries * * *. These regulations are to ease the impact of the lead phasedown regulations on small refineries which existed at the time of the Amendment, and are not to increase the numbers or gasoline production capacity of small refineries by allowing greater use of lead additives. Because of concern about lead as an environmental pollutant, EPA does not wish to greatly expand the effect of this exemption." 44 FR 46276 (August 7, 1979).

EPA agrees with those commenters recommending establishment of a date for continuing eligibility for small refinery status. The Agency has proposed an October 1, 1976 cutoff date as the date most consistent with congressional intent in including the small refinery exemption in the 1977 Clean Air Act Amendments. This intent, the Agency believes, was to provide relief to existing small refineries that might be financially unable to install necessary octane-boosting equipment in the same timeframe as larger refineries.

The number of facilities claiming small refinery status has greatly increased in the past five and one-half years: from about 110 as of October 1, 1976, to 159 as of March 31, 1982. Thus the premise upon which EPA, in its 1979 rulemaking, did not promulgate an October 1976 cutoff date—that the number of small refineries had remained relatively constant since 1976—is no longer applicable.

The Agency's proposal to return to the original statutory definition of a small refinery is based on the ever-growing number of such facilities and the increasing percentage of lead consumption that they account for (such newer facilities now account for about 10% of total lead usage). For a period of several years, the number of facilities qualifying for small refinery treatment remained almost constant. There were 110 such facilities in October 1976 and 112 in October 1979, according to lead usage reports filed by refineries with EPA. EPA's decision not to include a cutoff date in its August 7, 1979, promulgation of small refinery regulations was based on this stable trend and the expectation that this number would not grow in the future due to Department of Energy product and crude oil allocation rules. However, the increased economic incentives to establish small refineries which resulted in October 1980, when large refineries first were required to meet a 0.5 gpg standard, were greater than expected by EPA due to the very large rise in crude oil prices which followed the Iranian revolution. Coupled with the decontrol of crude oil and product prices which took final effect in January 1981, this led to a large increase in the number of new refineries. The number of small refineries increased to 125 in January 1981 and to 159 in March 1982, the latest date for which EPA has information.

Unlike the refineries which existed prior to EPA's lead phasedown program, refineries that opened afterwards did so on notice that existing regulations required them to meet the same standard as large refineries. These businesses came into existence fully cognizant that capital expenditures would be required to meet the lead content standard within a short period of time. While others may have set up businesses and invested substantial amounts of capital prior to the lead phasedown program, the new refineries did not.

would be required to meet the lead content standard within a short period of time. While others may have set up businesses and invested substantial amounts of capital prior to the lead phasedown program, the new refineries did not.

Absent a cutoff date for small refinery status, the number of facilities eligible for such status is theoretically unlimited. The Agency cannot, consistent with its statutory mandate to protect the public health, endorse an open-ended invitation for new businesses to enter the market and increase the market share of higher lead content gasoline. An additional consideration in development of this proposal is that, while older small refineries were located largely in rural areas to serve rural markets, the incentive to set up new refineries also exists in urban markets. Many of the new small refineries serve such areas either directly or through pipelines; thus these refineries are of greater health concern due to the larger populations subject to lead exposure in urban areas.

Comparison of the list of refineries that have opened since October 1976 with the March 1982 survey of refineries by the "Oil and Gas Journal" indicates that these newer refineries have made very small capital investments. Moreover, as a matter of common business prudence, such an investment was unlikely to have been made by a refiner unless it could be recovered by October 1982 or unless the company expected to be able to meet the 0.5 gpg standard after that date. Therefore the loss of unrecovered capital due to the closing of facilities which choose not to meet the more stringent standard should not be large. If these facilities continue to operate, they will probably either purchase higher octane components from other refineries with spare capacity to make these products or install reforming capacity of their own. Since most of these refineries already purchase gasoline components from larger refineries, it appears that such purchase agreements are common. As these components appear readily available and competitively priced on the open market, refineries that purchase such components for gasoline blending should incur similar costs to those of other refineries which process crude oil for gasoline production. However, if a refinery is not otherwise competitive in its operation, and survives solely due to the cost advantage of a higher lead limit, it would suffer adverse effects under this proposal.

Other commenters favored eliminating blenders (gasoline producers who process feedstock into marketable gasoline primarily through the addition of lead) from the group of small refineries which would benefit from small refinery standards.

The Agency notes that the number of "refineries" subject to the small refinery exemption has dramatically increased during the past several years, and that these are mostly blenders. EPA also notes that the lead used by these facilities has increased substantially, and that this is due primarily to blenders. However, the Agency believes that present information does not necessitate separately defining a blender or redefining a small refinery specifically to remove blenders from the group subject to relaxed standards. Instead, the proposal would limit the number of small refineries eligible for relaxed standards without differentiating refineries on the basis of the method of gasoline production. While the Agency proposes not to deal with blenders specifically, it notes that the proliferation of blenders, with the resultant increase in lead emissions, illustrates the problem of not adhering strictly to the definition provided in the Act.

Although imposing the October 1, 1976, cutoff date would primarily affect blenders, since blenders, like other small refineries, would have had to meet the 0.50 pooled standard on October 1, 1982, under current regulations, they are actually benefiting from this proposal to establish a 1.10 gpg leaded standard.

The third and fourth elements of the definition represent a change from capacity limits in the current definition to production limits in the proposed definition. Many comments on the February 22, 1982, proposals suggested that the small refinery definition be changed to reflect actual gasoline produced rather than historical crude processing capacity, noting that the amount of lead is a function of operating level rather than capacity. Noting that in today's market there is a vast difference between operating level and capacity, and that existing EPA reporting requirements already include production data, it was argued that this was a more appropriate definition.

Commenters argued that crude oil capacity bears no reasonable or consistent relationship to leaded gasoline output, lead usage, and/or lead emissions. Refineries of the same capacity produce different amounts of gasoline depending upon such factors as sophistication and configuration of the refinery and specific gravity or sulphur content of the crude oil. Moreover, gasoline output was said to be an objectively verifiable criterion not subject to different possible measurements as is refining capacity.

Furthermore, the current lead phasedown regulations depend on a certification of the crude oil or bona fide feed stock capacity of a refinery by the U.S. Department of Energy's Office of Refining Operations. Upon price decontrol, DOE ceased certification of refineries as to their crude oil capacity on January 31, 1981.

These criticisms of a definition based upon capacity appear to be justified. Because the Department of Energy no longer certifies crude oil capacity, a new method would have to be structured for determining capacity. Those few commenters suggesting new ways to ascertain capacity proposed that refineries claiming the exemption periodically certify their capacity to the Agency. A definition based on production, on the other hand, would be easy to administer and would not necessitate submission of further paperwork to the Agency since quarterly production figures are already required to be submitted to EPA by 40 CFR 80.20(a)(3). The Agency also agrees that gasoline production is more closely related than capacity to ultimate lead emissions, which are the object of the lead phasedown regulations.

Commenters offered various suggestions as to how EPA's present definition based on capacity could be translated into a new definition based on production. One commenter, claiming that an efficient refinery would produce gasoline equal to as much as 65% of crude capacity, suggested that a small refiner be defined as one producing no more than 32,500 bpd (65% of 50,000). Most, however, suggested using a 50% figure. A few commenters said that in redefining a small refinery in terms of production, a Nelson complexity factor of three or better should be incorporated.

The Agency has concluded that a lower production rate than that suggested by most commenters is appropriate. Accordingly, condition (3) of the proposed new definition would limit production to 10,000 bpd for qualified refineries. Review of comments indicates that it is likely that most of the larger small refineries have already upgraded equipment so as to be capable of meeting the current 0.5 gpg standard (and thus the proposed 1.10 gpg leaded standard). One commenter, refering to survey results published in the March 22, 1982, issue of "Oil and Gas Journal," calculated that of the 41

largest small refineries operating on January 1, 1977, 33 had upgraded equipment so as to be capable of meeting the 0.5 limit and six had expanded so as to no longer meet EPA's definition of a small refinery. Thus the large majority of otherwise-qualified small refineries which would exceed a 10,000 bpd standard, if not all, are believed to be able to meet a 1.10 gpg leaded standard. Analysis performed for EPA by SCI also supports this conclusion. EPA estimates that there are 16 facilities in this category. These refineries also tend to market their gasoline in urban areas and frequently have high local market shares. EPA believes that allowing this group of refineries to meet a more relaxed standard could have an adverse health impact in such urban areas.

EPA also notes that the proposed 10,000 bpd production standard is roughly equivalent to a 30,000 bpd crude oil capacity standard for this group of refineries, since less sophisticated refineries generally have gasoline production rates of about one-third of their crude oil capacity. A 30,000 bpd crude oil capacity standard was part of the small refinery definition proposed by EPA in 1977.

The Agency estimates that there will be approximately 74 facilities that would meet the definition of a small refinery under the proposed regulations. As noted earlier, these refineries produce about 4% of the total volume of gasoline made in this country. They now account for about 9% of the lead usage in gasoline. Assuming that they maintain their current market share, this percentage could increase to approximately 36% in 1990.

An important issue is whether allowing greater lead usage for certain small refineries on a permanent basis would cause those urban areas supplied by such refineries to experience significantly higher lead concentrations in gasoline and thus higher levels of lead emissions. The Agency has examined this issue and concluded that this does not appear to be a significant problem.

A study performed for the Agency by SCI analyzed data on 68 small refineries (as defined prior to today) and identified nine urban areas in which there was a substantial small refinery share of the gasoline market. Of these nine areas, six were supplied by refineries whose production currently exceeds 10,000 bpd or which were not in operation or under construction prior to October 1, 1976. Of the three remaining areas, one area (population 1.5 million) obtains about 25% of its gasoline from a refinery with a daily production of only slightly above the 10,000 bpd level. In a second area, one supplying refinery would no longer meet the definition of a small refinery, thereby reducing the impact of the remaining small refinery(ies) to a negligible market share. The remaining area (population less than 500,000) may receive as much as one-third of its gasoline from facilities which would remain defined as small refineries.

Of the areas surveyed by SCI, therefore, two urban areas may be adversely affected by a small refinery definition using a 10,000 bpd cutoff level. Of these, the larger area would be adversely affected only if the supplying refinery cuts back its production to below the 10,000 bpd level. The smaller area is in an agricultural region with substantial demand for leaded gasoline for farm vehicles, raising questions as to the contribution of small refineries to the gasoline supply in the adjacent urban area.

In another effort to examine this issue, EPA examined gasoline sampling and analysis data in 1981 surveys by the Motor Vehicle Manufacturers Association (MVMA). Of 23 large urban areas routinely sampled by the MVMA, three had high annual average levels of lead in leaded gasoline (greater than 1.3 gpg). None of these areas was among the nine identified by SCI as having a substantial small refinery share of their gasoline market. The Agency specifically requests comments on the impact of the proposed small refinery definition on lead emissions in specific urban and rural areas.

The fourth criterion in the proposed regulation would define a small refinery as one not owned or controlled by a refiner with more than a 70,000 barrel per day gasoline production. This limit was derived by assuming an average production of a refinery as 50% of capacity, multiplying the present 137,500 barrel capacity limit by this percentage (137,500 x .5=68,750), and rounding off.

The proposed regulation specifies that a refinery's status may fluctutate from calendar quarter to calendar quarter depending on its production rates. The Agency believes that it would not be appropriate to base a determination of small refinery status on a prior calendar quarter's production because there is frequently fluctuation in gasoline production from quarter to quarter. This could enable a refinery whose prior quarter's production was low to produce at a high rate in the following quarter, resulting in high lead usage if it were treated as a small refinery. Thus the small refinery standard of 2.50 gpg for leaded gasoline is proposed to be applicable to refineries producing less than 10,000 bpd of gasoline in the calendar quarter for which the quarterly report required by the regulations is being filed, assuming all other elements of the definition are met.

EPA intends the proposed small refinery standard to allow small refineries to maintain their general production levels without requiring the expenditure of capital funds to install new equipment. The standard is not intended to allow small refineries to expand their production of leaded gasoline above their current levels, and thereby increase total emissions of lead into the environment. The Agency invites comments on methods to assure that such a proliferation of leaded gasoline does not occur. The Agency also solicits comments on the issue of whether the special standard for small refineries should be limited to some definite time period.

Regulation of Imported Gasoline

Introduction. The importation of refined gasoline into the United States has recently become an issue of concern. At the time of the original promulgation of the lead phasedown regulations little gasoline was imported into the country. When oil price controls were removed in early 1981, however, foreign-produced gasoline became price-competitive. Since that time refined gasoline has been imported in sometimes dramatically increased quantities. One commenter on the February 22, 1982, proposed rules claimed that imports into California underwent a five-fold increase in volume from 200,000 barrels per month in 1980 to one million barrels per month in 1981. Another commenter estimated that imports now account for 3.2% of the total West Coast market and 7% of the leaded West Coast market.

The vast majority of commenters on the February 22, 1982, proposed rule favored the regulation of finished gasoline imported into the United States. Domestic refiners, large and small, expressed the view that they are placed at a competitive disadvantage because imported gasoline, not subject to EPA regulations on lead content since it is not produced in this country, is being sold below market prices in the United States. The commenters pointed out that imported gasoline may contain higher levels of lead, thereby enabling it to achieve octane ratings equivalent to domestically refined gasoline at a much lower cost. This cost advantage was said to encourage additional importation of gasoline. To illustrate the price differential encouraging imports, one commenter cited U.S. Department of Commerce statistics showing that domestic gasoline sold at $44.60 per

barrel in 1981 while imported gasoline sold at $41.39 per barrel.

There is little generalized data available as to the lead levels of imported gasoline. Tosco Corporation supplied figures with its comments on the proposed rule showing that, during the period from June 1981 through February 1982, 12 cargoes of imported gasoline were offered for sale to Tosco. These cargoes, from China, Singapore and Bahrain, ranged in lead content from .44 gpg to 3.15 gpg, with the average being 1.42 gpg.

What does seem clear from the information available on imports is that imported gasoline tends to be marketed in coastal urban areas near the ports of entry, which tend to be densely populated. In light of the fact that imported gasoline is leaded gasoline, it becomes a concern that a disproportionate amount of lead emissions is being concentrated in East and West Coast port areas. In those localized areas, imported leaded gasoline could negate the advantages gained by enforcing a lead standard for domestic gasoline marketed in the same geographical areas.

When the lead phasedown program was first promulgated, the total volume of imported gasoline was relatively very small. It now appears that significant quantities of leaded gasoline are being imported into this country. This probably occurs both because of the price advantage generated by the absence of regulatory control and because most foreign refiners are not equipped to manufacture commercial quantities of unleaded gasoline. Where once regulatory control was not needed, such control is now necessary to protect the domestic environment.

Legal authority. EPA has adequate authority to regulate the lead content of imported gasoline sold in this country. Section 211(c)(1) of the Clean Air Act, 42 U.S.C. 7545(c)(1), empowers the Administrator to "* * * control or prohibit the manufacture, offering for sale, or sale of any fuel or fuel additive for use in a motor vehicle * * *" The content of fuel sold in the United States, regardless of the origin of the fuel, is within the Agency's regulatory jurisdiction. It is the general rule, not the exception, that foreign-made products must meet the same standards as those produced domestically. For example, foreign-made motor vehicles are subject to the same emission and safety standards as vehicles made in the U.S.

Thus, although EPA cannot control the production of gasoline in foreign countries, it can control imported gasoline sold or offered for sale in the domestic market, regardless of its place of manufacture. The regulation proposed in this notice would do precisely that.

Proposed regulatory scheme. Section 80.20(c)(1) of the proposed regulations would require that imported leaded gasoline sold or offered for sale in the United States not exceed the same 1.10 gpg standard that would apply to leaded gasoline produced by all except very small-sized domestic refineries. The importer of leaded gasoline for purposes of resale (i.e., the first entity to offer the gasoline for sale in this country) would be responsible for complying with this requirement. This importer would be permitted to average the lead content of imported leaded gasoline on a quarterly basis in determining compliance with the lead standard. Averaging over a calendar quarter would allow such importers the same flexibility that domestic refineries would be afforded.

Proposed § 80.20(c)(2) details the method for calculating the lead content of imported gasoline and thereby for determining compliance with § 80.20(c)(1). Calculating lead content for imports is more complicated than making this determination for domestic gasoline because EPA has no control over the amount of lead put in imported gasoline when it is manufactured, and EPA cannot require lead reports from lead additive manufacturers or refiners in foreign countries.

As a result of the above constraints, the following procedures are proposed to assure accurate and practical information for the purpose of verifying compliance:

(1) Each cargo of imported leaded gasoline that is sold or offered for sale in this country would be required to be tested by the importer for lead content by atomic absorption spectrometry, as set forth in Appendix B to 40 CFR Part 80. The test must be performed on a representative sample of the shipment.

(2) The total number of grams of lead in each such shipment would then be calculated by multiplying the average lead content (determined in Step 1) by the total gallons of gasoline in the shipment.

(3) The total grams of lead in all such shipments in a particular quarter would then be added together.

(4) The total gallons of imported gasoline in all such shipments in a quarter would then be added together.

(5) Finally, the average lead content of all imported gasoline sold or offered for sale in a quarter would be calculated by dividing the total grams of lead in all shipments (determined in Step 3) by the total gallons of gasoline in all shipments that quarter (determined in Step 4).

Importers of leaded gasoline would be subject to the same reporting requirements as refiners. The specific information that must be reported each quarter would include the above test figures, calculations, and additional identifying information, as set forth in proposed § 80.20(c)(3).

The Agency believes that the above regulatory scheme is the most appropriate because it meets the regulatory objective of protecting health and the environment, expedites enforcement, and should not create interference with international commerce.

Several commenters on the February 22, 1982, proposals suggested that imported gasoline be compelled to meet the lead standard on a cargo-by-cargo basis. This scheme has not been proposed because, among other things, it would costly to require U.S. Customs Service and EPA personnel to certify every shipment of imported gasoline as meeting the lead limit. It would also be more efficient to involve no more than one Federal agency in enforcement. To make every cargo meet the lead standard would additionally burden importers because it would not allow quarterly averaging. On the other hand, the Agency is concerned that it be able to determine the importer's compliance with substantive and reporting requirements. The Agency specifically requests comments on whether the proposed scheme would allow it to adequately track imported gasoline entering the country and the entities responsible for its sale. The Agency also requests comments on whether it should require importers of leaded gasoline to register with EPA prior to importation or sale of leaded gasoline produced in a foreign country.

Inter-Refinery Averaging

In the February 22, 1982, notice of proposed rulemaking, the Agency requested comments on whether intra-refiner or inter-refiner averaging should be allowed. Commenters on intra-refiner averaging stated that such averaging would permit refiners to take advantage of the seasonal operations of refineries owned by the same refiner. It would also permit a more efficient usage of lead, especially during unexpected shutdowns of plants. Commenters also pointed to cost savings and reductions in crude oil imports without a net increase in lead usage.

Commenters on the issue of inter-refiner averaging opposed the concept for various reasons. Most were concerned that it would create a complex regulatory program such as that created in the DOE crude oil allocation program. On the other hand, one

commenter noted that inter-refiner averaging would afford small refineries a mechanism to take advantage of the surplus octane-producing capacity of other refineries.

In this notice, EPA is proposing a regulatory provision that would allow all refineries, whether owned by the same refiner or not, to average lead usage over a calendar quarter. Importers of leaded gasoline would also be permitted to take advantage of averaging. EPA believes that this proposal is warranted based on its potential for more efficient usage of already installed octane-boosting equipment and the decreased costs that may result from such usage, in addition to the other advantages pointed out by the commenters. The Agency does not believe that its proposed regulatory scheme is complicated nor that it would hinder the workings of the marketplace. Rather the Agency believes that it would introduce an element of flexibility into industry lead usage. In this respect it is similar to EPA's offset and bubble policies for stationary sources of air pollution, policies which have already been used by the refining industry. Since overall lead emissions allowed under the averaging proposal would not be any greater, the program should not have any adverse environmental consequences. Since no refinery would be forced by the proposed regulations to average with another refinery, EPA would not be involved in the allocation of lead usage and there should be no adverse impact on the marketplace.

Under proposed § 80.20(d), one or more refiners would be able to demonstrate compliance with the applicable lead content standard for leaded gasoline by "constructively allocating" their actual lead usage in any manner agreed upon by the refiners. Constructive allocation means one refinery reporting the lead actually used by another. In order to assure that total lead usage would be fully reported and that it would not exceed levels permitted for the averaging refineries, three constraints would be placed on averaging of lead usage among two or more refineries:

(1) The average constructive lead content of leaded gasoline produced in a calendar year by each refinery which is not a small refinery could not exceed 1.10 gpg;

(2) The average constructive lead content of leaded gasoline produced in a calendar year by each small refinery could not exceed 2.50 gpg; and

(3) The total amount of constructively allocated lead usage in a calendar quarter by all refineries which have agreed to average lead usage, as reported to EPA, would have to be equal to the actual lead usage in that time period by such refineries.

In order to permit EPA to monitor the averaging among refineries, additional reporting requirements would be established for refineries utilizing this mechanism. Each refinery that actually used more lead than it was reporting would have to list the amount of excess lead reported by another refinery and would be required to provide identifying information concerning the other refinery. The other refinery, which actually used less lead than it was reporting, would have to report similar information. EPA would then be able to cross-check reports to determine compliance. A constructive lead content for each refinery would be calculated by dividing the grams of lead reported, actual usage plus or minus traded usage, by the number of gallons of leaded gasoline actually produced at that refinery during the calendar quarter. For the purpose of averaging, all imported leaded gasoline sold during a calendar quarter by each importer would be treated as the output of a refinery, and the importer would be treated as a refiner.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that Federal agencies examine the impacts of their regulations on small entities. Under 5 U.S.C. 604(a), whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment an initial regulatory flexibility analysis. Such an analysis is not required if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, pursuant to 5 U.S.C. 605(b). EPA has prepared an initial regulatory flexibility analysis for the regulations proposed in this notice, and this initial analysis has been placed in the rulemaking docket.

In summary, the initial analysis discusses four regulatory alternatives considered by the Agency. These alternatives include two different pooled average standards applicable to all refineries, a leaded standard applicable to all refineries, and the two-tiered leaded standard proposed today. The analysis concludes that the standard proposed today would be less costly than the others for small refineries.

National Academy of Sciences Recommendations

Section 307(d) (3) of the Clean Air Act, 42 U.S.C. 7607(d) (3), requires that rulemaking proceedings under section 211 of the Act, 42 U.S.C. 7545, take into account any pertinent findings, comments, and recommendations by the National Academy of Sciences. Pertinent findings by the National Academy of Sciences are contained in the 1980 report, "Lead in the Human Environment," prepared by the Committee on Lead in the Human Environment of the National Academy of Sciences. The major recommendations in this report pertinent to regulatory controls are the following:

(1) "Efforts to control exposure to lead should proceed, with full acknowledgement of the necessary imprecision of estimates of the costs, risks, and benefits.

(2) "Control strategies should be based on coordinated, integrated measures to reduce exposures from all significant sources."

(3) "Improved institutional mechanisms should be developed to permit a more systematic, consistent approach to the management of lead hazards."

(4) "Expanded and more concerted efforts should be made to identify children at risk and remove sources of lead from their environments. A serious effort should also be made to reduce the 'background' level of exposure of the general population to lead. The most important elements in control strategies include population screening, lead paint removal, reduction of lead emissions from gasoline combustion, and reduction of lead levels in foods."

The Agency has taken these recommendations into account in the development of this regulatory proposal and believes that the proposal would provide for accelerated implementation of these recommendations to the extent that they can be met through the lead phasedown program.

Additional Information

Executive Order 12291 requires the preparation of a Regulatory Impact Analysis for major rules, as defined by the Order. The Agency has determined that this proposed regulation is not major because it is not likely to result in:

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

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

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

based enterprises in domestic or export markets.

This action would in fact reduce the costs that small refineries as a group would face after October 1, 1982, under the existing regulations. It would not increase present costs of other refineries, nor would it significantly increase their future costs.

This action was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12291. Any comments from OMB and any EPA responses are available for public inspection at the Central Docket Section, U.S. Environmental Protection Agency, West Tower, 401 M Street, SW., Washington, D.C. 20460 (Docket A-81-36). This proposal was revised in response to those comments.

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.*, the information collection provisions in this proposed rule will be submitted to the Office of Management and Budget (OMB). The final rulemaking notice will explain how the information collection provisions have been changed in response to any OMB or public comments.

List of Subjects in 40 CFR Part 80

Fuel additives, Gasoline, Motor vehicle pollution, Penalties.

(Sections 211 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7545 and 7601(a))

Dated: August 23, 1982.

John E. Daniel,

Acting Administrator.

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

For the reasons set out in the preamble, Part 80 of Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

1. Section 80.2 is proposed to be amended by revising paragraphs (p) and (r), to read as follows:

§ 80.2 Definitions.

* * * * *

(p) "Small refinery" means a refinery:

(1) the gasoline producing capacity of which was in operation or under construction at any time during the one-year period immediately preceding October 1, 1976; and

(2) which has an average daily production of 10,000 barrels of gasoline or less during the most recent calendar quarter; and

(3) which is not owned or controlled by any refiner with a total combined average daily production of greater than 70,000 barrels of gasoline during the most recent calendar quarter; and

(4) which has produced gasoline during the period July 1, 1981 to June 30, 1982, as evidenced by submittal to EPA prior to August 27, 1982, of a report for any two calendar quarters during this period pursuant to § 80.20(b)(2).

* * * * *

(r) "Importer" means any person who imports gasoline from a foreign country into the United States (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands).

2. Section 80.4 is proposed to be revised to read as follows:

§ 80.4 Right of entry; tests and inspections.

The Administrator or his authorized representative, upon presentation of appropriate credentials, shall have a right to enter upon or through any refinery (including any small refinery), retail outlet, wholesale purchaser-consumer facility, the premises or property of any distributor, or any place where gasoline is stored, and shall have the right to make inspections, take samples, and conduct tests to determine compliance with the requirements of this Part.

3. Section 80.7 is proposed to be amended by revising paragraph (c) to read as follows:

§ 80.7 Requests for information.

* * * * *

(c) Any refiner, distributor, wholesale purchaser-consumer, retailer, or importer shall provide such other information as the Administrator or his authorized representative may reasonably require to enable him to determine whether such refiner, distributor, wholesale purchaser-consumer, retailer, or importer has acted or is acting in compliance with § 211(c) of the Act and the regulations thereunder and shall, upon the request of the Administrator or his authorized representative, produce and allow reproduction of any relevant records at all reasonable times. Such information may include but is not limited to records of unleaded gasoline inventory at a wholesale purchaser-consumer facility or a retail outlet, unleaded pump meter readings at a wholesale purchaser-consumer facility or a retailer outlet, and receipts providing the date of acquisition of signs, labels, and nozzles required by § 80.22. No person shall be required to furnish information requested under this paragraph if he can establish that such information is not maintained in the normal course of his business.

4. Section 80.20 is proposed to be revised to read as follows:

§ 80.20 Controls applicable to gasoline refiners.

(a) *General requirements.* (1) refinery which is not a small refinery (as defined in § 80.2(p)) shall not produce leaded gasoline whose average lead content during any calendar quarter exceeds 1.10 grams of lead per gallon of leaded gasoline, beginning (the effective date of the final regulation).

(2) Except as provided in paragraph (d)(1) of this section, compliance with the requirements of paragraph (a)(1) shall be determined by dividing the total grams of lead used in the production of leaded gasoline at a refinery during a calendar quarter by the total gallons of leaded gasoline produced at the refinery in the same calendar quarter.

(3) For each calendar quarter, commencing with the period (starting with the effective date of the final regulation), each refiner shall submit to the Administrator a report which contains the following information for each refinery:

(i) The total grams of lead in the refinery's lead additive inventory on the first day of the calendar quarter;

(ii) The total grams of lead received by the refinery during the calendar quarter;

(iii) The total grams of lead in the refinery's lead additive inventory on the last day of the calendar quarter;

(iv) The total gallons of leaded gasoline produced by the refinery during the calendar quarter;

(v) The total gallons of unleaded gasoline produced by the refinery during the calendar quarter;

(vi) The total grams of lead used in the production of leaded gaoline by the refinery during the calendar quarter;

(vii) The average lead content of each gallon of leaded gasoline produced by the refinery during the calendar quarter;

(viii) The total grams of lead used in the production of products other than gasoline by the refinery during the calendar quarter, by type of product;

(ix) The total gallons of products other than gasoline in which lead was used that were produced by the refinery during the calendar quarter, by type of product; and

(x) If any of the products listed in paragraph (a)(3)(ix) above were sold or otherwise transferred to another refinery during the calendar quarter, the total gallons of each product so transferred, the name and address of the refinery to which the transfer was made, and the date of such transfer.

(b) *Requirements for small refineries.* (1) A small refinery (as defined in § 80.2(p)) shall not produce leaded gasoline whose average lead content

during any calendar quarter exceeds 2.50 grams of lead per gallon of leaded gasoline, beginning (the effective date of the final regulation).

(2) Except as provided in paragraph (d)(1) of this section, compliance with the requirements of paragraph (b)(1) of this section shall be determined by dividing the total grams of lead used in the production of leaded gasoline at a small refinery during a calendar quarter by the total gallons of leaded gasoline produced at the small refinery in the same calendar quarter.

(3) A refiner shall submit reports for each small refinery as specified in paragraph (a)(3) of this section.

(c) *Requirements for imported leaded gasoline.* (1) No importer shall sell or offer for sale leaded gasoline which has been imported into the United States and whose average lead content during any calendar quarter exceeds 1.10 grams of lead per gallon of such gasoline, beginning (the effective date of the final regulation).

(2) Except as provided in paragraph (d) of this section, compliance with the requirements of paragraph (c)(1) shall be determined by calculating:

(i) The lead content of each shipment of imported leaded gasoline sold by the importer during the calendar quarter, determined by performance by the importer of the test for lead in gasoline set forth in Appendix B of this Part upon a representative sample of gasoline in the shipment;

(ii) The total grams of lead added to each such shipment, determined by multiplying the lead content of the shipment by the total gallons of leaded gasoline in the shipment;

(iii) The total grams of lead added to all such shipments sold during the calendar quarter;

(iv) The total gallons of leaded gasoline in all such shipments sold during the calendar quarter; and

(v) The average lead content of all imported leaded gasoline sold during the calendar quarter, determined by dividing the total in paragraph (c)(2)(iii) of this section by the total in paragraph (c)(2)(iv) of this section.

(3) For each calendar quarter, commencing with the period beginning (the effective date of the final regulation), each importer who sells leaded gasoline which has been imported into the United States shall submit to the Administrator a report which contains the following information:

(i) The information described in paragraphs (c)(2) (i) through (v) of this section;

(ii) For each shipment of imported leaded gasoline sold during the reporting period: Name and address of importer; name and address of consignee; date of entry; vessel or carrier or other means of importation; port or point of entry; entry number (where applicable); total gallons of leaded gasoline in shipment.

Reports shall be submitted within 15 days after the close of the reporting period on forms provided by the Administrator.

(d) *Inter-refinery averaging.* (1) As an alternative means of demonstrating compliance with the requirements of paragraph (a)(1), paragraph (b)(1), or paragraph (c)(1) of this section, one or more refiners may demonstrate such compliance by constructively allocating lead usage between/among two or more refiners (including small refineries) in any manner agreed upon by the refiner(s), so long as:

(i) The average constructive lead content of leaded gasoline produced in a calendar quarter by each refinery which is not a small refinery does not exceed 1.10 grams of lead per gallon of leaded gasoline produced; and

(ii) The average constructive lead content of leaded gasoline produced in a calendar quarter by each small refinery does not exceed 2.50 grams of lead per gallon of leaded gasoline produced; and

(iii) The total amount of lead usage in a calendar quarter by all such refineries, as constructively allocated and reported, is equal to the total amount of lead actually used in the calendar quarter by all such refineries.

(2) Any refiner who demonstates compliance with the requirements of this section pursuant to paragraph (d)(1) of this section shall submit to the Administrator, as an additional part of the report required by paragraph (a)(3), paragraph (b)(3) or paragraph (c)(3) of this section, the following information:

(i) The total grams of lead actually used by the reporting refinery during the calendar quarter and constructively allocated to another refinery, and the name and address of such other refinery (for each such constructive allocation);

(ii) The total grams of lead actually used by another refinery during the calendar quarter and constructively allocated to the reporting refinery, and the name and address of such other refinery (for each such constructive allocation);

(iii) The total grams of lead constructively used in the production of leaded gasoline by the reporting refinery during the calendar quarter, as determined by performing the following calculations upon the total grams of lead actually used by the reporting refinery during the calendar quarter: (A) Subtracting the total grams of lead indicated in paragraph (d)(2)(i) of this section, and (B) adding the total grams of lead indicated in paragraph (d)(2)(ii) of this section; and

(iv) The constructive average lead content of each gallon of leaded gasoline produced by the reporting refinery during the calendar quarter, as determined by dividing the total grams of lead indicated in paragraph (d)(2)(iii) of this section by the total gallons of leaded gasoline produced by the reporting refinery during the calendar quarter.

When compliance is demonstrated pursuant to paragraph (d)(1) by more than one refiner, each such report shall also include supporting documentation adequate to show the agreement of all such refiners to the constructive allocation of lead usage stated in the report.

(3) For purposes of paragraphs (d)(1) and (d)(2) of this section, the total amount of imported leaded gasoline sold during a calendar quarter by each importer shall be treated as the output of a single refinery, and each such importer shall be treated as a refiner.

[FR Doc. 82-23525 Filed 8-24-82; 3:23 pm]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AEN-FRL-2182-7(c)]

Regulation of Fuels and Fuel Additives

AGENCY: Environmental Protection Agency (EPA).

ACTION: Suspension of compliance date for small refineries.

SUMMARY: On February 22, 1982, EPA proposed to suspend indefinitely the October 1, 1982, compliance date for small refineries to comply with the 0.5 gram per gallon (gpg) lead content standard currently applicable to gasoline produced at other refineries in this country. In a separate proposed rule issued on the same date, the Agency requested comments on a variety of other issues related to the lead phasedown program. In this rulemaking, EPA is suspending the compliance date of the 0.5 gpg standard for small refineries from October 1, 1982, to October 31, 1982. The Agency expects to take final action prior to November 1, 1982, on a proposal to amend the lead phasedown regulations appearing elsewhere in this issue of the **Federal Register**. (In addition to the proposal of new lead phasedown regulations, this issue of the **Federal Register** also includes a notice withdrawing a previous proposal to rescind or relax the overall 0.5 gpg standard.) In addition, EPA is extending the October 1, 1982, expiration date of all the small refinery provisions by one month. EPA is also promulgating a final rule replacing the 0.5 gpg standard with one of 0.50 gpg (significant to two places).

DATES: The suspension of the October 1, 1982, compliance date, the extension of the expiration date of the small refinery standards, and other actions taken in this notice are effective October 1, 1982. The suspension and extension will remain in effect until October 31, 1982.

ADDRESS: Comments received in this docket (Docket No. A–81–36) may be viewed at the Central Docket Section (A–130), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. The docket is located in the West Tower Lobby of EPA and may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Richard G. Kozlowski, Director, Field Operations and Support Division (EN–397), EPA, 401 M Street, SW., Washington, D.C. 20460, telephone (202) 382–2633.

SUPPLEMENTARY INFORMATION:

History of Small Refinery Standards [1]

EPA's original lead phasedown regulations, promulgated on December 6, 1973, required all refineries (including small refineries) to meet a standard of 0.5 gram of lead per gallon (gpg) of gasoline produced by January 1, 1979. 38 FR 33734. On January 17, 1977, EPA proposed an exemption from the lead phasedown schedule for small refineries. 42 FR 3188. This proposal would have required small refineries that were in operation on October 1, 1976, and that had a capacity of not more than 30,000 barrels per day of crude oil, to meet a maximum average lead standard of 1.0 gpg of lead in gasoline for each three-month period beginning October 1, 1979. This special consideration for small refineries was designed to equalize the economic impact of the lead phasedown regulations upon large and small refineries.

EPA received comments on the proposed regulation and was drafting a final regulation when it became apparent that Congress might preempt EPA's action in an amendment to the Clean Air Act. EPA delayed the promulgation of its regulation pending congressional action, which occurred in the Clean Air Act Amendments enacted in August 1977.

In response to claims that small refineries needed additional time to generate the investment capital to comply with the 0.5 gpg standard, Congress amended the Clean Air Act in 1977 to extend the date for small refineries to comply. Section 211(g)(1)(B) of the Clean Air Act, 5 U.S.C. 7545(g)(1)(B), added by the 1977 amendments, defines a "small refinery" as "a refinery, or a portion of [a] refinery producing gasoline:

(i) the gasoline producing capacity of which was in operation or under construction at any time during the one-year period immediately preceding October 1, 1976, and

(ii) which has crude oil or bona fide feed stock capacity (as determined by the Administrator) of 50,000 barrels per day or less, and

(iii) which is owned or controlled by a refiner with a total combined crude oil or bona fide feed stock capacity (as determined by the Administrator) of 137,500 barrels per day or less.

[1] For a discussion of the history of the lead phasedown program in general, see the notice elsewhere in this issue of the **Federal Register** withdrawing a portion of a previous notice of proposed rulemaking concerning the full program.

The Act prohibited the EPA Administrator prior to October 1, 1982, from requiring small refineries to meet a lead content standard more stringent than the standards set forth in § 211(g)(2) of the Act. That provision sets forth five standards for small refineries ranging from 0.80 gpg to 2.65 gpg, depending on refinery size. After October 1, 1982, the Administrator has broad authority to promulgate appropriate regulations for lead limits of gasoline refined by small refineries. As to entities not meeting the statutory definition of a small refinery, EPA is permitted to set lower lead limits prior to October 1, 1982.

On April 26, 1978, in response to the 1977 Amendments, EPA proposed regulations exempting small refineries from the 0.5 gpg standard. 43 FR 17841. In these proposed regulations, the definition of a small refinery was the same as that in section 211(g)(1)(B) of the Act, and standards for these refineries were proposed at the levels specified in section 211(g)(2). The final regulations, issued on August 7, 1979, were similar to the proposed regulations except that the definition of a small refinery was expanded to include refineries established after October 1, 1976. The Agency determined that between 1976 and 1979 the number of small refineries had remained relatively constant, thus justifying, at that time, deletion of the October 1, 1976, cut-off date and extending the less stringent standards to all small refineries. Accordingly, the final definition (codified at 40 CFR 80.2(p)) provided that a small refinery is one:

(1) (w)hich has a crude oil or bona fide feed stock capacity of 50,000 barrels per day or less, and

(2) (w)hich is not owned or controlled by any refiner with a total combined crude oil or bona fide feed stock capacity greater than 137,500 barrels per day.

The final regulations, which became effective on October 1, 1979, provided an exemption for small refineries from the 0.5 gpg standard until October 1, 1982. In the interim three-year period, they have been subject to the standards prescribed in section 211(g)(1)(B) of the Act.

February 22, 1982, Proposed Rule

On February 22, 1982, EPA proposed an indefinite suspension of the October 1, 1982, effective date for compliance by small refineries with the 0.5 gpg standard. This proposal was based on the fact that the Agency, on the same date, initiated a reconsideration of the entire lead phasedown program, including the issue of whether small refineries should be subject to the 0.5

gpg standard. Because this standard was subject to change in a future rulemaking action, the Agency proposed that the effective date for small refineries to meet the 0.5 gpg standard be postponed pending the outcome of the review of the phasedown program. 47 FR 7814.

In a related notice of proposed rulemaking on the same date, the Agency outlined various issues and alternative regulatory options under consideration. (For a more complete description of this rulemaking, see the notice which withdraws a portion of that rulemaking proposal, published elsewhere in this issue of the **Federal Register**.)

Comments on the notice of proposed suspension were required to be submitted by March 24, 1982. Comments on the notice of proposed rulemaking were initially due on May 3, 1982, but this date was later extended to May 17, 1982. A public hearing was held on April 15 and 16, 1982, at Arlington, Virginia, to allow interested persons to present oral testimony on both notices of proposed rulemaking. More than 700 written comments were submitted in response to either or both of the two notices by May 17, 1982. Eighty-one witnesses presented oral testimony at the public hearing. All such written comments and testimony which relate to suspension of the October 1, 1982, compliance date for small refineries, as well as comments received after the close of the comment periods, have been considered by the Agency in the development of this notice of rulemaking.

Today's Action

In this notice, EPA is taking final action to suspend the effective date for compliance with the 0.5 gpg standard for small refineries. As indicated above, this suspension will be in effect until October 31, 1982, by which time EPA expects to take final action on a proposal to amend the lead phasedown regulations appearing elsewhere in this issue of the **Federal Register**. As stated in the February 22 notice of rulemaking proposing the suspension, the basis for this suspension is the need to defer the necessity for small refineries to decide whether to make the substantial expenditures required to meet a more stringent lead standard during the time that the Agency is still considering amendments to the lead phasedown program. Those amendments, if adopted, would affect the need to make such expenditures for many small refineries.

The Agency is also addressing an ancillary issue in this package by promulgating a final rule replacing the current 0.5 gpg standard for non-small refineries with one of 0.50 gpg for those refineries. This action, which was suggested by several commenters, will correct a problem in the current rule which restricted the Agency's ability to enforce the standard at the appropriate level. In the current regulations, the standard is expressed with only one significant digit (0.5 gpg). Most of the refiners in fact responded to the rule by producing fuel which was below 0.50 gpg over the measured period. Some refiners, however, interpreted this limit as permitting production of gasoline with lead levels which exceeded 0.5 absolutely but were within 0.5 as rounded; i.e., between 0.500 and 0.549 gpg.

Given the confused regulatory history on this point, the Agency did not believe it could enforce an absolute 0.5 gpg standard and so advised inquiring refiners. Thus, different refiners were in fact applying different standards, an inequitable situation. Further, the potential difference in total lead emissions could amount to as much as a 10% difference for the non-small refinery contribution to total lead burden.

Since most of the refineries currently have in fact met a 0.50 gpg standard since the inception of this rule, and this standard would therefore cause no additional burden on them, and since correcting this problem could make a significant difference in the amount of lead emitted into the environment, EPA finds it appropriate that the lead standard for all refineries not specifically exempted in this package be 0.50 gpg, beginning with the quarter commencing on October 1, 1982. This matter will be re-addressed, if necessary, when action is taken on the proposal, mentioned above, to amend the current phasedown regulations.

Environmental Impact of Today's Action

Introduction. In a separate action published in this issue of the **Federal Register** withdrawing certain previously proposed regulatory actions, EPA has discussed its analysis of the major health-related comments and issues submitted to the rulemaking docket in response to the two February 22, 1982, proposal notices. An assessment of the broad national implications of the lead phasedown program may be found in that document. As the findings and conclusions of that analysis are equally applicable here, they will not be detailed herein. In summary, however, it should be noted that one of the Agency's primary findings in the original lead phasedown rulemaking was that lead emissions from gasoline should be reduced in view of health risks. That finding has not been changed by the evidence presented to date; rather, it may be that further action to reduce those lead emissions would be wise in light of the precautionary purposes of the Clean Air Act. The assessment included in this document, however, is concerned only with the implications of the action taken by the Agency in this final rulemaking suspending the compliance date for small refineries.

Anticipated Impacts on Lead Additive Use. Currently defined small refineries account for about 10% of the national gasoline market and account for approximately 25% of the total national lead additive consumption. The current action continues the current treatment for all small refineries only for one month.

Based on the assumption that small refineries will operate at the same production and lead use rates in this one-month suspension period as they did in the first quarter of 1982, EPA has estimated the impact of this suspension. Small refineries produced 2.42 billion gallons of gasoline during the first quarter of 1982, using 3.61 billion grams of lead. This is approximately equal to .81 billion gallons of gasoline and 1.20 billion grams of lead per month. This lead consumption rate will not change during the one-month suspension period.

Although this specific portion of the package will temporarily allow more lead emissions than would be allowed if all small refineries were required to meet a 0.50 gpg standard on October 1, 1982, EPA does not believe that this limited action will have a substantial effect on the nation's health. It is only effective for the month of October 1982, by which time EPA expects to take final action on the proposed rule appearing elsewhere in today's **Federal Register** which will result in a significant long-term decrease in lead emissions and therefore have beneficial impact on public health and welfare.

More importantly, equity demands that the small refineries be relieved, at least temporarily, from the requirement of meeting a 0.50 gpg standard for all gasoline. The 1.10 gpg leaded gasoline standard being proposed today would not apply to certain small refineries. Under this proposal, those small refineries would be subject to a leaded standard of 2.50 gpg. Hence, forcing them to meet a tighter standard now could cause economic disruption to most of these refineries, at a time when the Agency is still considering the final standard they should be required to meet. Those refineries might have to make substantial capital investments in new equipment which could be rendered unnecessary by the completion of the rulemaking proposed today. Such a

result would further compound the inequities.

Economic Impact. EPA's action to suspend the October 1, 1982, date for compliance by small refineries will result in a deferral of capital expenditures for octane-improvement facilities that would have had to be made prior to that date. EPA's contractor, Sobotka and Company, Inc. (SCI), has estimated that the amount of capital expenditures that would have had to be made by the facilities qualifying for this extension is between $0 and approximately $85 million. No savings will occur if none of the projects announced before January 1982 can be deferred. The full $85 million will be saved if all of the projects can be deferred. The annualized capital charge for these capital expenditures would be up to $21 million per year, or about $1.75 million per month. Cost savings in operating costs would be almost $28 million per year, or about $2.33 million per month. The one-month suspension provided by this notice would therefore result in savings of up to $4.08 million for small refineries.

In terms of energy impact, EPA has estimated that the actions taken in this notice will result in decreased oil consumption of about 5000 barrels (crude oil equivalent) per day, compared with requiring all small refineries to meet the 0.50 gpg standard.

Response to Comments

The Agency received a large number of comments concerning the regulation of small refineries in response to the two February 22, 1982, notices of proposed rulemaking. A summary of significant comments relevant to the actions taken in this notice of rulemaking appears below, together with the Agency's responses to those comments. Other comments concerning the regulation of small refineries are not discussed here because the Agency is not taking final action at this time on the full range of issues relevant to small refineries. These other comments have been reviewed by the Agency, however, in the development of the proposed regulation published elsewhere in this issue of the **Federal Register**.

Comment: A large majority of commenters favored eliminating blenders (gasoline producers who process feedstock into marketable gasoline primarily through the addition of lead) from the group of small refineries which would benefit from a suspended compliance date. Some approached this issue by suggesting that EPA directly address the blender issue by separately defining blenders and making them subject to a different lead limit than other small refineries.

Other commenters recommended redefining small refineries so as to remove blenders from the group benefiting from a suspension of the October 1982 compliance date. Some proposed that EPA give small refinery status only to those refineries certified by the Department of Energy as bona fide refineries. Most suggested that the Agency revise the definition of a refinery to require that the facility refine crude oil and/or condensate through distillation or chemical processing or process crude oil or unfinished oils other than by blending. Some suggested adding that the facility produce at least 50% of its gasoline through those processes.

Blenders predictably urged the Agency not to treat them differently than other small gasoline producers. Some of these commenters challenged the propriety of treating one group of gasoline producers differently from another group of producers simply based upon the difference in method of gasoline production.

Agency Response: The Agency notes that the number of "refineries" subject to the small refinery exemption has dramatically increased during the past several years, and that these are mostly blenders. However, the Agency finds that present information does not necessitate separately defining a blender or redefining a small refinery specifically to remove blenders from the group subject to the suspension, particularly since the suspension will be for such a short period of time. As described earlier in this notice, it would be inequitable to subject any small refiner to the stringent 0.50 gpg standard by October 1, 1982, given that EPA expects to revise that standard by November 1, 1982. Elsewhere in this issue of the **Federal Register**, EPA is proposing a new definition of a "small refinery" which limits the number of eligible facilities to those in operation or under construction prior to October 1, 1976. The Agency believes that this is the most appropriate way to deal with proliferation of facilities eligible for small refinery treatment.

Comment: A number of commenters suggested that the definition of a small refinery include a date by which the refinery should have been in existence in order to qualify for continued small refinery treatment. Of those making this comment, the vast majority suggested that EPA utilize the October 1, 1976, date specified in the 1977 Clean Air Act Amendments.

Other commenters recommended the use of later dates as cutoff points for continuing small refinery status, including: August 7, 1979 (the date that EPA promulgated final small refinery regulations creating a "loophole" for new facilities); October 1, 1979 (the effective date of the small refinery regulations); and January 27, 1981 (the date that the Department of Energy (DOE) ended gasoline price controls).

Finally, one commenter claimed that establishing any cutoff date, or "grandfathering," is impermissible since it would amount to retroactive rulemaking, noting that the Administrative Procedure Act allows flexibility in rulemaking because rules are generally prospective in effect.

Agency Response: EPA agrees with those commenters recommending establishment of a date for continuing eligibility for permanent small refinery status and proposes an October 1, 1976, cutoff date in a related notice as the date most consistent with congressional intent in including the small refinery exemption in the 1977 Clean Air Act Amendments. However, the Agency believes that it is more appropriate to propose this cutoff date and take comments on it, than to promulgate it as a requirement in this notice. As stated before, it would be inequitable at this time to eliminate some small refineries from the suspension.

Comment: A suspension of the date for compliance by small refineries with the 0.5 gpg standard should be for a limited period of time. Most of those making this comment recommended that the suspension last for two or three years, which would provide adequate time for small refineries who have not already done so to plan and implement plant expansion to include unleaded gasoline production.

Agency Response: The Agency agrees with this comment in part and is therefore promulgating a suspension for a very limited period, one month. EPA is now in rulemaking to determine what the long-term requirements should be for both large and small refineries. This is expected to provide the time needed to evaluate comments received in response to the Agency's notice of proposed rulemaking (published elsewhere in this issue of the **Federal Register**) and to take final action on that proposal.

Comment: A few commenters opposed extension of the small refinery exemption except in cases where a small refinery could prove it had already initiated a program to expand its facilities to allow unleaded gasoline production. In those instances, said the commenters, an extension of time

should be granted based upon requirements of the individual refinery.

Agency Response: As stated above, the Agency is now in rulemaking to determine the specific requirements for its lead phasedown program. These comments assume that a 0.5 gpg standard for all refineries is the correct approach. This is not necessarily the case. EPA does not believe that case-by-case determinations are necessary for such a short suspension period.

Comment: Some owners of small refineries commented that they had already invested in upgrading facilities and objected to EPA's suspension of the compliance date so as to allow those small refineries refusing to commit capital for improvement to benefit further.

Agency Response: Those owners of small refineries that have already invested in upgrading their facilities would probably have done so at some date in response to the increasing market share of unleaded gasoline. In addition, the Agency believes that many of those that have so invested are larger-sized small refineries that would be subject to a 1.10 gpg standard for lead in leaded gasoline under the proposed regulation, and thus might be required to make these expenditures in a short period in any case. Many of the facilities which have not made these expenditures would be subject to the 2.50 gpg cap on leaded gasoline, if adopted, and ultimately might not be required to make such expenditures. Weighing the equities of the situation, the Agency has determined that a suspension of very limited duration is the most equitable course of action.

Comment: Congress intended that the small refinery exemption be for a limited time period only.

Agency Response: In the 1977 Amendments to the Clean Air Act (sec. 211(g)(2)), Congress specified the minimum period of time during which the Agency could not place more restrictive requirements on small refineries (prior to October 1, 1982). However, it did not specify that more lenient standards could not be extended beyond October 1, 1982, if warranted by the facts. In fact, Congress specifically provided that, "The Administrator may promulgate such regulations as he deems appropriate with respect to the reduction of the average lead content of gasoline refined by small refineries on and after October 1, 1982, taking into account the experience under the preceding provisions of this paragraph." This clearly provides EPA with latitude to establish appropriate requirements for small refineries, including a standard different than that for large refineries.

By including the provision setting forth small refinery gasoline production and concomitant lead levels, Congress did not "intend to limit the authority of EPA to set lead standards before or after October 1, 1982, for refineries and refiners not covered by this provision. And, on the basis of experience under this provision, the Administrator shall promulgate such standards as he sees fit for the period beyond October 1, 1982 for refineries herein defined." H.R. Rep. No. 95–564, 95th Cong., 1st Sess. 162 (1977).

Comment: The Agency's enforcement policy with respect to the 0.5 gpg standard would allow rounding of the number to a 0.549 gpg level over each quarter. Several parties commented to the effect that this policy would result in significant increases in lead emissions and would have a larger impact on public health and welfare than the small refinery exemption.

Agency Response: The Agency agrees that the potential impact of this policy could be significant. It also believes that it could not have effectively enforced an absolute level of 0.50 under the earlier regulations. It notes that very few refineries have in fact exceeded the 0.50 gpg level; and that no additional capital expenditure would be required for large refineries to meet a 0.50 gpg standard. Moreover, it is inequitable to allow some refineries to exceed 0.50 gpg while others do not.

The proposed rule would deal with the issue by controlling lead in leaded gasoline to two significant decimal places. In the meantime it seems inappropriate to allow lead emissions to increase over where they in fact are now for no perceptibly important reason. Therefore, the Agency is promulgating a rule to set the large refinery standard at 0.50 gpg until final action is taken on the proposal.

Comment: The Agency is required by Executive Order (E.O.) 12291 to prepare a Regulatory Impact Analysis.

Agency Response: E.O. 12291 requires the preparation of a Regulatory Impact Analysis only for major rules, as defined by the Order. The Agency has determined that this action is not major because it is not likely to result in:

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

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

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

This action will not in fact have any adverse effect on the economy, since it will defer any costs that small refineries would have faced after October 1, 1982, under the existing regulations. In addition, neither the annual costs to small refineries under the current rule, nor the annual costs under this rule, will equal $100 million; thus, no Regulatory Impact Analysis specifically addressing this suspension notice is required. However, an initial regulatory flexibility analysis has been prepared for the lead phasedown proposal appearing elsewhere in today's **Federal Register.**

Additional comments were received in response to the proposal to suspend the October 1, 1982, compliance date. Major areas of concern have been answered in this preamble. A review of other comments appears as a separate document entitled "Supplemental Response to Comments on the Proposal to Suspend the October 1, 1982, Compliance Date for Small Refineries." This separate document has been included in docket number A–18–36.

Regulatory Flexibility Act Statement

This action suspends the October 1, 1982, effective date for compliance with the 0.50 gpg standard for all small refineries for one month. Since this action creates only beneficial impacts for small entities, compared to the current regulations, I certify that it is not necessary to prepare a regulatory flexibility analysis.

Other Information

Current reporting requirements in the lead phasedown regulations have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and have been assigned OMB control number 2000–0041. Under this Act, the additional information collection provisions in this rule will be submitted to OMB; these additional requirements are not effective until approved by that office. A notice of that approval will be published in the **Federal Register.**

This action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. OMB's comments to EPA are available for public inspection at the Central Docket Section, U.S. Environmental Protection Agency, West Tower, 401 M Street, SW., Washington, D.C. 20460 (Docket A–81–36). This notice has been revised in response to those comments.

The final actions taken today are made under the authority of sections 211 and 301 of the Clean Air Act and are nationally applicable. Under section 307(b)(1) of the Clean Air Act, judicial review may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for judicial review must be filed on or before October 26, 1982.

List of Subjects in 40 CFR Part 80

Fuel additives, Gasoline, Motor vehicle pollution, Penalties.

(Sections 211 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7545 and 7601(a))

Dated: August 23, 1982.

John E. Daniel,

Acting Administrator.

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

For the reasons set forth in the preamble, EPA amends 40 CFR Part 80 as follows:

§§ 80.2 and 80.20 [Amended]

1. The expiration date of 40 CFR 80.2(p), 80.2(q), 80.2(r) and 80.20(b) is changed to November 1, 1982.

§ 80.20 [Amended]

2. Section 80.20 is amended by revising paragraph (a)(1)(ii) to read as follows:

(a) * * *

(1) * * *

(ii) 0.50 gram of lead per gallon after October 1, 1979, except as provided in paragraph (a)(6) of this section.

* * * * *

3. Section 80.20 is amended by revising paragraph (a)(5) to read as follows:

(a) * * *

(5) Until November 1, 1982, the provisions of paragraphs (a)(1) and (a)(4) of this section shall not apply to any small refinery, as defined in § 80.2(p).

* * * * *

4. Section 80.20 is amended by revising paragraph (a)(9)(ii) to read as follows:

(a) * * *

(9) * * *

(ii) 0.50 gram of lead per gallon after October 1, 1980 and for quarters prior to this date for which a valid registration form is not on file.

* * * * *

5. Section 80.20 is amended by revising paragraphs (b)(1) and (b)(2) to read as follows:

* * * * *

(b) * * *

(1) * * *

(i) Gasoline manufactured at a small refinery shall not exceed the average lead content specified in the table below for the four-month period beginning July 1, 1982, and ending October 31, 1982.

Barrels per calendar day [1]	Grams per gallon [2]
5,000 or under	2.65
5,001 to 10,000	2.15
10,001 to 15,000	1.65
15,001 to 20,000	1.30
Greater than 20,000	.80

[1] Preceding calendar year production rate of gasoline.
[2] Allowable average lead content of gasoline.

(ii) Gasoline manufactured at a small refinery shall not exceed an average lead content of 0.50 gram of lead per gallon for the two-month period beginning November 1, 1982, and ending December 31, 1982, and for each three-month period thereafter.

(2) For each small refinery, as defined in § 80.2(p), each refiner shall submit reports as required in paragraph (a)(3) of this section, and shall submit additional reports for the four-month period commencing July 1, 1982, and ending October 31, 1982, and for the two-month period commencing November 1, 1982, and ending December 31, 1982. These reports shall contain the information required under paragraph (a)(3) of this section for each such period and shall be submitted to the Administrator by November 15, 1982, and January 15, 1983, respectively.

[FR Doc. 82-23527 Filed 8-24-82; 3:23 pm]

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federal register

Friday
August 27, 1982

Part VI

Department of Labor

Mine Safety and Health Administration

Underground Coal Mine Safety Standards Review; Extension of Comment Period

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

Underground Coal Mine Safety Standards Review; Advance Notice of Proposed Rulemaking; Extension of Comment Period

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Notice to extend period for public comment.

SUMMARY: On July 9, 1982 (47 FR 30025), MSHA issued an advance notice of proposed rulemaking which invited the public to participate in the initial stages of its review of the underground coal mine safety standards. These regulations appear in Part 75 of Title 30, Code of Federal Regulations. Interested persons were given until September 7, 1982, to submit comments. The comment period is extended to November 15, 1982.

DATE: Comments must be received on or before November 15, 1982.

ADDRESS: Interest persons are invited to submit written comments and suggestions to the Office of Standards, Regulations and Variances, MSHA, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: On July 9, 1982, (47 FR 30025), MSHA announced its intention to solicit public participation in the initial stages of its review of the underground coal mine safety standards in 30 CFR Part 75. Interested persons were encouraged to submit comments with respect to possible regulatory action concerning standards for roof support, blasting and explosives, and the ventilation plan requirements and criteria in § 75.316. MSHA also invited written comments from interested persons relating to any concerns that they may have with other underground coal mine safety standards, including suggestions for the order in which the standards should be reviewed.

The comment period was scheduled to close on September 7, 1982. In response to a request for an extension of time, MSHA has extended the comment period until November 15, 1982. All members of the mining community are encouraged to submit comments within the extended time.

List of Subjects in 30 CFR Part 75

Mine safety and health, Underground mining.

Dated: August 24, 1982.

Thomas J. Shepich,

Deputy Assistant Secretary for Mine Safety and Health.

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Federal Register

Vol. 47, No. 167

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INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

33245-33478....2
33479-33664....3
33665-33948....4
33949-34102....5
34103-34348....6
34349-34508....9
34509-34768....10
34769-34968....11
34969-35164....12
35165-35462....13
35463-35748....16
35749-35950....17
35951-36098....18
36099-36402....19
36403-36604....20
36605-36800....23
36801-37074....24
37075-37360....25
37361-37858....26
37859-38098....27

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

51....34107

3 CFR

Proclamations:

4955....33479
4956....33481
4957....34103
4958....35749

Administrative Orders:

Memorandums:

August 17, 1982....36403

Executive Orders:

July 11, 1905 (Revoked by PLO 6313)....35768
July 26, 1906 (Revoked by PLO 6313)....35768
October 10, 1906 (Revoked by PLO 6313)....35768
October 13, 1906 (Revoked by PLO 6313)....35768
October 15, 1906 (Revoked by PLO 6313)....35768
November 14, 1906 (Revoked by PLO 6313)....35768
November 26, 1906 (Revoked by PLO 6313)....35768
December 9, 1906 (Revoked by PLO 6313)....35768
December 24, 1906 (Revoked by PLO 6313)....35768
February 16, 1907 (Revoked by PLO 6313)....35768
February 24, 1908 (Revoked by PLO 6313)....35768
April 2, 1909 (Revoked by PLO 6313)....35768
October 4, 1909 (Revoked by PLO 6313)....35768
December 4, 1909 (Revoked by PLO 6313)....35768
December 20, 1909 (Revoked by PLO 6313)....35768
February 14, 1910 (Revoked by PLO 6313)....35768
February 15, 1910 (Revoked by PLO 6313)....35768
March 2, 1910 (Revoked by PLO 6313)....35768
April 14, 1910 (Revoked by PLO 6313)....35768
May 9, 1910 (Revoked by PLO 6313)....35768
July 2, 1910 (Revoked by PLO 6313)....35768
July 7, 1910 (Revoked by PLO 6313)....35768
August 8, 1910 (Revoked by PLO 6313)....35768
October 13, 1910 (Revoked by PLO 6313)....35768
December 3, 1910 (Revoked by PLO 6313)....35768
March 31, 1911 (Revoked by PLO 6313)....35768
May 11, 1911 (Revoked by PLO 6313)....35768
February 5, 1912 (Revoked by PLO 6313)....35768
March 4, 1912 (Revoked by PLO 6313)....35768
February 4, 1913 (Revoked by PLO 6313)....35768
May 11, 1915 (Revoked by PLO 6313)....35768
February 21, 1916 (Revoked by PLO 6313)....35768
March 16, 1916 (Revoked by PLO 6313)....35768
November 17, 1926 (Revoked by PLO 6313)....35768
9080 (Amended by EO 12377)....34509
10692 (*See* EO 12377)....34509
11022 (Revoked by EO 12379)....36099
11157 (Amended by EO 12380)....36605
11256 (Revoked by EO 12379)....36099

11330 (Revoked by EO 12379)....36099
11654 (Revoked by EO 12379)....36099
11782 (Revoked by EO 12379)....36099
11829 (Revoked by EO 12379)....36099
11912 (Amended by EO 12375)....34105
12042 (Revoked by EO 12379)....36099
12071 (Revoked by EO 12379)....36099
12075 (Revoked by EO 12379)....36099
12083 (Revoked by EO 12379)....36099
12085 (Revoked by EO 12379)....36099
12089 (Revoked by EO 12379)....36099
12095 (Revoked by EO 12379)....36099
12132 (Revoked by EO 12379)....36099
12159 (Revoked by EO 12379)....36099
12182 (Revoked by EO 12379)....36099
12192 (Revoked by EO 12379)....36099
12194 (Revoked by EO 12379)....36099
12202 (Revoked by EO 12379)....36099
12207 (Revoked by EO 12379)....36099
12262 (Revoked by EO 12379)....36099
12275 (Revoked by EO 12379)....36099
12285 (Revoked by EO 12379)....36099
12358 (Amended by EO 12376)....34349
12367 (Amended by EO 12378)....34511
12375....34105
12376....34349
12377....34509
12378....34511
12379....36099
12380....36605

5 CFR

1201....36801
1303....33483

Proposed Rules:

530....33713, 34152

7 CFR

2....35951
6....34769
51....34513
68....34515
101....35751
210....35165
226....36524
271....35166
272....35166
273....35166
274....35166
278....35166
301....33665, 33666, 34109, 36102
330....36102
413....36801
417....36405
418....35463
427....37361
442....37363
650....34111
724....37859
726....37860
905....34351
908....33949, 34969, 36103
910....33949, 34115, 35169, 36408, 37861
911....34351
915....34351, 36104
916....34351, 35751
917....34115, 34351, 35751, 36607
918....34351
919....34351
921....34351
922....34351
923....34351
924....34351
930....34351
932....34117, 34969
944....34117, 36104
945....34351, 34353
946....33245, 34351
947....34351
948....34351
953....34351
958....34351
967....34351
985....34351
993....34351
1030....35951, 36409
1403....37075
1421....36805, 37861-37874
1427....36805
1434....35169
1474....33667
1475....34356
1823....36410
1902....36410
1933....36410
1941....33485, 36410
1942....33488, 36410
1943....36410
1944....36410
1945....33485, 36410
1948....36410
1980....36410

Proposed Rules:

24....36554
272....37905
273....37905
282....33513
301....36213
420....35213
424....35770
651....37907
656....36592
981....34992, 37911
989....34790
1004....33515, 34573
1006....37178
1011....37912
1012....37178
1013....34573, 37178
1030....33515, 33974
1033....37178
1036....37178
1040....37178
1076....34994
1124....37178
1125....37178
1133....37178
1134....37178, 37203
1135....37178
1136....37178, 37203
1137....37178, 37203
1139....33516, 37178
1250....34964
1421....35493
1701....36851, 37913
1980....36205

8 CFR

Proposed Rules:

3....37556
103....37556
204....35226

9 CFR

92....33671
151....36608
307....33673
310....33673
312....33490
319....36106
327....36109
381....33490, 36109

Proposed Rules:

112....34794
113....34995
201....36852
301....33517
318....33517
381....33517, 34428

10 CFR

71....34970
430....34517
463....33679
500....34972, 35753
503....34972
791....35754
794....36376
795....34770

Proposed Rules:

50....33980, 35996
420....36651
440....36651
455....36651
465....36651
477....36651

11 CFR

Proposed Rules:

106....35892
9031....35892
9032....35892
9033....35892
9034....35892
9035....35892
9036....35892
9037....35892
9038....35892
9039....35892

12 CFR

Ch. VII....33950
4....33491
201....35465, 36609, 37075
217....37878, 37879
225....37368
329....37076
509....34120
523....36610
526....36610
545....36610-36621
555....36612
556....34125
561....36610, 36612
563....34120, 36610-36621
564....36610
570....36612
1204....34127

Proposed Rules:

329....33276, 37248
523....34152
545....34152
563....34152

13 CFR

108....34529
124....35754
125....34972

Proposed Rules:

107....35498
121....36651

14 CFR

21....35150
23....35150
36....35150
39....33246-33248, 33951, 34357-34360, 34974, 35465-35469, 36626, 36627, 37373-37375
61....35690
63....35690
65....35690
67....35690
71....33249-33251, 33952, 34361, 34362, 34974, 35470-35472, 36112-36114, 37376, 37377
73....34362
91....34363, 34975, 35150, 35156
95....34364
97....34978, 36115
121....33384, 34980, 35150
135....33394, 35150
139....35150
145....33384, 43980, 35690
187....35690

Proposed Rules:

Ch. I....34997
1....33277, 37806
21....37559
27....37806
29....37806
39....34439-34430, 35517, 36217, 36652-36655
43....33277
71....33278-33280, 34431, 34998-35002, 35518, 36217-36219, 36655, 36656, 37560
73....33280, 35003
75....36220
91....35146, 37806
121....35146
135....35146
253....33713, 34795
320....33981, 35519
323....36443, 37914
326....37914
1215....35228

15 CFR

4b....33680

8b.....35472
301.....34368
385.....36629
923.....34981
927.....34981
928.....34981
931.....34981
2011.....34777

16 CFR

2.....33251
13.....34981, 35179, 35180, 36184, 36416
460.....36806
1204.....36186

Proposed Rules:

13.....35004, 35519, 36220, 37249, 37251
1610.....35006

17 CFR

1.....37880
6.....37880
200.....37077
239.....34890
249.....33490, 34368, 34890
259.....33590, 34890
269.....34890
274.....33590, 34890
279.....34890
301.....33590

Proposed Rules:

240.....37560, 37919, 37920
249.....37560

18 CFR

1.....35952, 35956
1b.....35952, 35956
2.....35952, 35956
3.....35952, 35956
3a.....35952, 35956
3c.....35952, 35956
4.....35952, 35956
12.....35952, 35956
16.....35952, 35956
25.....35952, 35956
32.....35952, 35956
33.....35952, 35956
34.....35952, 35956
35.....35952, 35956
41.....35952, 35956
45.....35952, 35956
131.....35952, 35956
152.....35952, 35956
153.....35952, 35956
154.....35952, 35956
156.....35952, 35956
157.....35180, 35952, 35956
158.....35952, 35956
250.....35952, 35956
270.....35952, 35956
271.....34371-34374, 35952, 35956
275.....35952, 35956
281.....35952, 35956
282.....35952, 35956
284.....35952, 35956
286.....35952, 35956
292.....35952, 35956
375.....35952, 35956
385.....35952, 35956
388.....35952, 35956

Proposed Rules:

1.....34155
3.....34155
271.....35232, 36434-36436, 37562
375.....34155
381.....34155

19 CFR

4.....35182, 35473
6.....35473
10.....35473, 36630
12.....35473, 36630
18.....35473, 37880
19.....35473
22.....35473
24.....35473
101.....35183, 35473
123.....35473
146.....35473
147.....35473
148.....35473
161.....35473
201.....33681
207.....33681

Proposed Rules:

7.....37563
10.....37563
22.....37563
113.....37563
123.....37924
134.....27926
145.....37563
146.....37927
158.....37563
177.....35234
191.....37563

20 CFR

260.....36808
404.....34781, 35479, 36117
416.....35948, 36117, 37378
684.....35184

21 CFR

Ch. I.....35185
74.....33491
81.....33491
82.....33491
146.....34131
173.....35756
176.....34530
177.....33492
178.....33492
430.....33493
436.....33493
440.....33493
442.....33493
444.....33493
446.....33493
449.....34132
510.....36417
520.....35185, 36417, 36814
522.....36418
540.....35757, 35758
556.....34133, 35758
558.....33493, 34133, 34531 35186, 35187, 35759, 36418, 36419
561.....37078
610.....34532
660.....34532

Proposed Rules:

101.....34574
105.....34574
146.....35234
155.....33519
172.....33519, 34155
182.....34155-34164, 35240, 35242, 35243, 35247, 35772, 36437, 36440, 37928, 37931
184.....34155-34164, 35242, 35243, 35247, 35772-35778, 36437-36443, 37928, 37931
341.....37934
344.....35249
350.....36492
357.....37062, 37068
358.....34166
600.....35249
603.....31780
660.....35780
809.....34575
1308.....33986

22 CFR

15.....36631
15a.....36631
42.....37079

23 CFR

140.....33952
635.....36632
646.....33952
772.....33956

Proposed Rules:

450.....37758

24 CFR

115.....33682
200.....34334, 34375, 35760
201.....35479
203.....33252, 33494, 33495, 35762, 35957
204.....33252, 35957
205.....35762
207.....35762
213.....35762, 35957
215.....36814
220.....35762, 35957
221.....33494, 35762, 35957
222.....33494, 35957
226.....35957
227.....35957
232.....35762
233.....35957
234.....35762, 35957
235.....33494, 33495, 35762, 35957
236.....35762, 36814
237.....35957
240.....35957
241.....35762
242.....35762
244.....35762
300.....34376
425.....36814
426.....36814
570.....35674
590.....33258
865.....33259
882.....33496, 34376
883.....33263
890.....37378
3282.....33264, 36419

Proposed Rules:

865.....35249

26 CFR

20.....35188

Proposed Rules:

1.....34431, 34576
301.....33519

27 CFR

9.....35480, 36125, 36419

Proposed Rules:

5.....35521
9.....36221, 36445, 37588

28 CFR

2.....33956, 36634, 36635
31.....35686
541.....35920

Proposed Rules:

2.....36657

29 CFR

2.....35184
1601.....36819
1910.....35189

Proposed Rules:

519.....34166
570.....34166
1910.....34577, 35255, 36448
1952.....36449

30 CFR

211.....33265
221.....33265
231.....33265
250.....33265, 34134
251.....34134
270.....33265
700.....33424, 33683
705.....33683
707.....33683
710.....33683
715.....33683
716.....33683
717.....33683
718.....33683
720.....33683
771.....33683
776.....33683
778.....33683
779.....33683
780.....33683
782.....33683
783.....33683
784.....33683
785.....33683
786.....33683
788.....33683
816.....33683
817.....33683
822.....33683
825.....33424
826.....33683
840.....35620
842.....35620
843.....35620
845.....35620
910.....36396
935.....34688, 34718
936.....37080
942.....34724, 34754
946.....36127

Proposed Rules:

Ch. VII.....33520
75.....38097
700.....33714
701.....33714
740.....33714
741.....33714
742.....33714

743.....33714
744.....33714
745.....33714
746.....33714
800.....36570
806.....36570
820.....33988
886.....35782
905.....35011
915.....33714
931.....36226
938.....35782
941.....34760
944.....35998
946.....35783, 36227
947.....36657
948.....35783
950.....34796

31 CFR

51.....35960
203.....37081

32 CFR

1–39.....34982, 37084, 37129, 37380–37476
70.....37770
79.....34982
111.....36635
179.....35961
199.....35765
261.....34533
293.....33500
352.....34781
370.....34983
518.....35590
519.....35590
728.....36128
822.....34134
824.....34134
825.....34134
827a.....34134
837.....34134

Proposed Rules:

286b.....37256

33 CFR

100.....33265, 33266, 33956–33958, 36158, 37544
110.....35482
114.....36639
115.....36639
117.....33267, 36159–36161
127.....34984
146.....35736
161.....33958
164.....34388
165.....33266, 34984, 35482
177.....36641
207.....34534

Proposed Rules:

110.....35011
115.....33990
117.....33281, 36227
157.....35142
161.....35523
164.....35531
165.....35011
166.....34432

34 CFR

674.....33398
675.....33398
676.....33398
778.....35454

Proposed Rules:

300.....33836
668.....33412
690.....33412

36 CFR

50.....34137
901.....34536, 35766
910.....36641
920.....36641
921.....36641
922.....36641
923.....36641
1190.....33862, 34783

Proposed Rules:

7.....36228
211.....36564

37 CFR

1.....33688, 33959
2.....33688, 33959
203.....36819
204.....36819

Proposed Rules:

2.....33991

38 CFR

36.....35190

Proposed Rules:

17.....35013, 36658

39 CFR

111.....34783
601.....36821

40 CFR

32.....35940
52.....33502, 33688, 34537–34539, 34784, 34785, 35191, 35193, 35483, 36822, 37171
60.....34137
61.....36421, 36422
80.....38090
81.....34147, 34539, 35965
122.....35766
123.....33268, 35967, 35970
162.....33959
180.....33689–33693, 34536, 35971–35975, 37172
244.....36602
245.....36602
246.....36602
260.....35766, 36162
261.....36092
264.....35766
265.....35766
761.....37342

Proposed Rules:

Ch. I.....37256
52.....33282, 33522, 33991, 35784, 36857, 37590
60.....34342, 36859
65.....33715
80.....38070, 38078
81.....33282, 36449, 36659
86.....36450, 36660
123.....35533
162.....33716
171.....33592
180.....33719, 33720, 37256, 37257
230.....36798
256.....36451, 36452
440.....35256
469.....37048
723.....33896, 33924
761.....37258

41 CFR

Ch. 1.....33693, 35767
Ch. 7.....35484, 37882
Ch. 101.....33960, 34786, 36823, 37173
1–1.....33693
1–2.....36164
1–3.....36164
1–16.....36164
3–3.....33503
5–1.....36823
8–3.....33694
101–4.....34148
101–7.....37545
101–11.....34787
101–36.....37173
101–41.....33959
101–45.....37174
101–47.....37175

Proposed Rules:

29–70.....35784
101–47.....33993
105–61.....37259

42 CFR

50.....33695
110.....35194
405.....34082
416.....34082
433.....37547
441.....33695
442.....37547
466.....37842

43 CFR

17.....37550
1780.....34389

Public Land Orders:

4984 (Revoked by PLO 6312).....35487
6289.....33964
6311.....34539
6312.....35487
6313.....35768
6314.....35768

Proposed Rules:

Subtitle A.....35696, 35714
3100.....34577
3110.....34577
3120.....34577
3130.....34577
3620.....35914
3630.....35914
8360.....35914

44 CFR

64.....33508, 34392–34395, 35195, 36165
65.....34397, 34400, 36167, 36423
67.....34397, 34399, 34540–34556
70.....34389–34391, 34400–34415, 35196–35203

Proposed Rules:

59.....33721
64.....33721
65.....33721
67.....33721, 34578, 34796–34809, 35256–35258, 35787
70.....33721
350.....36386

45 CFR

96.....33696
302.....37886
303.....37886
304.....37886
305.....37886
600.....34151
680.....34151
681.....34151
682.....34151
683.....34151
684.....34151
1356.....36647

Proposed Rules:

1336.....37852

46 CFR

4.....35741
26.....35741
35.....35741
56.....37551
67.....35487
68.....35487
73.....37551
74.....37551
78.....35741
97.....35741
109.....35741
167.....35741
185.....35741
196.....35741
197.....35741
531.....34556
536.....34556, 36425

Proposed Rules:

4.....35533
26.....35533
31.....35090
32.....35090
35.....35533
37.....35090
42.....35090
46.....35090
56.....35090
71.....35090
72.....35090
73.....35090
74.....35090
75.....35090
78.....35090, 35533
79.....35090
80.....33284, 36660
91.....35090
92.....35090
93.....35090
97.....35533
99.....35090
107.....35090
108.....35090
109.....35090, 35533
111.....35090
151.....35090
153.....35090
154.....35090
167.....35090, 35533
168.....35090
170.....35090
171.....35090
172.....35090
173.....35090
174.....35090
175.....35090

177 35090
178 35090
179 35090
185 35533
189 35090
190 35090
191 35090
196 35533
232 36228
536 37261
538 37261

47 CFR

Ch. I 36824, 37889
2 ..... 34415, 34788, 35489
13 36170
15 ..... 34420, 35975, 36425
22 ..... 34561, 34568, 35203
68 37896
73 ..... 33268, 33269, 33702, 34423–34426, 34569–34572, 35975, 35990, 36170, 36171, 37896–37902
74 35975
87 36179
90 ..... 34415, 36647, 37902
95 37902

Proposed Rules:

Ch. I 36235
2 36235
5 35535
15 35014
17 36453
43 36660
73 ..... 33285–33287, 34435, 34589–34602, 34809–34811, 35258, 35998, 35999, 36235–36252, 36453, 36674, 37935
74 36453
76 36257
90 ..... 34603, 36675

49 CFR

1 33964
25 33270
193 33965
232 36792
395 36649
537 34985
571 ..... 36180, 37555
575 34990
670 33965
1039 33274
1090 33274
1104A 36184
1129 33703
1211 37903
1253 37903
1300 33274

Proposed Rules:

171 ..... 33288, 33295
172 ..... 33288, 33295
173 ..... 33288, 33295, 37592
174 33288
175 33295
176 33288
177 33288
178 ..... 33288, 37592
571 36260
575 36260
613 37758
638 37599
666 36262
1128 33993
1310 33722

50 CFR

17 36846
20 34498
285 35769
611 ..... 33512, 34151, 37555
650 35990
656 33512
657 ..... 33512, 34151
661 ..... 33709, 34426, 35489, 36849
662 33710
671 33711
672 33972
674 33274

Proposed Rules:

17 ..... 34436, 36675
20 36578
23 36457
255 33648
285 34437
540 36678
611 ..... 33722, 34167
646 36001
661 35016
674 ..... 34167, 37936

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 25, 1982