9-3-82
Vol. 47 No. 172
Pages 38861-39126

federal register

Friday
September 3, 1982

Selected Subjects

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 82-334]

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

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

DATES: Effective date of amendment September 3, 1982. Written comments concerning this rule must be received on or before November 2, 1982.

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

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

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This interim rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule would have an annual effect on the economy of less than $25,000; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

Certification Under the Regulatory Flexibility Act

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

Emergency Action

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

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited until November 2, 1982, and a final document discussing comments received and any changes required will be published in the **Federal Register** as soon as possible.

Background

Because of infestations of the Mediterranean fruit fly found in areas in California, the Mediterranean fruit fly quarantine and regulations were made effective on July 20, 1981 (46 FR 37706-37713), and amendments to the quarantine and regulations were made effective on August 7, August 19, and September 2, 1981, and on June 1, June 17, July 2, July 6, and August 6, 1982 (46 FR 40203-40205, 42072-42073, 44144-44145; 47 FR 23682-23683, 26121-26122, 29207-29209, 28909-28911, and 34109-34111). The quarantine and regulations are set forth in 7 CFR 301.78 through 301.78-10.

For the purpose of preventing the artificial spread of the Mediterranean fruit fly to noninfested areas in the United States, the quarantine and regulations restrict the interstate movement (movement from California into or through any other State,

Territory, or District of the United States) of articles designated as regulated articles from areas designated as regulated areas. Prior to the effective date of this document, the quarantine and regulations listed as regulated areas all of San Mateo County and portions of Santa Clara and San Joaquin Counties.

Based on trapping and sampling surveys conducted by inspectors of the U.S. Department of Agriculture and State agencies of California, it has now been determined that the Mediterranean fruit fly has been eradicated from San Mateo and Santa Clara Counties.

Under these circumstances there is no longer a basis for imposing restrictions on the movement of articles from San Mateo and Santa Clara Counties. Therefore, in order to relieve unnecessary restrictions on the interstate movement of certain articles, it is necessary as an emergency measure to delete from the list of regulated areas all of San Mateo County and the last regulated portion of Santa Clara County. This document does not affect the status of San Joaquin County and a portion of San Joaquin County remains listed as a regulated area.

List of Subjects in 7 CFR Part 301

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

PART 301—DOMESTIC QUARANTINE NOTICES

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

§ 301.78–3 Regulated areas.

* * * * *

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

California

San Joaquin County. That portion of the county beginning at a point where Interstate 5 intersects the Calaveras River; then easterly along said river to its intersection with West Lane; then easterly from said intersection along an imaginary line to the intersection of Cherryland Road and Waterloo Road; then northeasterly along Waterloo Road to its intersection with Beyer Lane; then southerly along Beyer Lane to its intersection with the Stockton Terminal and Eastern Railroad; then easterly along said railroad to its intersection with Baldwin Lane; then southerly along said lane to its intersection with State Highway 26; then easterly along said highway to its intersection with Alpine Road; then southerly along said road to its intersection with the Southern Pacific Railroad; then easterly along said railroad to an imaginary point due north of the intersection of Farmington Road and Kaiser Road; then due south from said point along an imaginary line to the intersection of Farmington Road and Kaiser Road; then southerly along Kaiser Road to its end; then south from the end of Kaiser Road along an imaginary line to its intersection with Lone Tree Creek; then westerly from said intersection along an imaginary line to the intersection of Union Road and Lovelace Road; then westerly along Lovelace Road to its intersection with Airport Way (Durham Ferry Road); then westerly from said intersection along an imaginary line to the intersection of Interstate 5 and Manila Road; then westerly along Manila Road to its end; then westerly from the end of Manila Road along an imaginary line to the beginning of Carlin Road; then westerly along Carlin Road to its intersection with Roberts Road; then northerly along Roberts Road to its intersection with Mueller Road; then due north from said intersection along an imaginary line to its intersection with the San Joaquin River; then northerly and easterly along said river to its intersection with the Smith Canal; then easterly along said Canal to its intersection with Interstate 5; then northerly along Interstate 5 to the point of beginning.

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

Done at Washington, D.C., this 30th day of August 1982.

H. L. Ford,

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

[FR Doc. 82–24319 Filed 9–2–82; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 375]

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 September 5–11, 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: September 5, 1982.

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

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-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 31, 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.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Section 910.675 is added as follows:

§ 910.675 Lemon Regulation 375.

The quantity of lemons grown in California and Arizona which may be handled during the period September 5, 1982, through September 11, 1982, is established at 200,000 cartons.

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

Dated: September 2, 1982.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–24551 Filed 9–2–82; 11:58 am]

BILLING CODE 3410–02–M

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7 CFR Part 1076

Milk in the Eastern South Dakota Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends certain provisions of the Eastern South Dakota Federal milk order. The suspension removes the limit on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The suspension of the provisions for the period of August 1982 through February 1983 was requested by a cooperative association that represents most of the producers supplying the market. The suspension is needed to prevent uneconomic movements of milk.

EFFECTIVE DATE: September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Proposed Suspension: Issued August 9, 1982; published August 12, 1982 (47 FR 34994).

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

It has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the issuance of the suspension in time to include August 1982 in the suspension period. The initial request for this action was received on July 30, 1982. A notice of proposed suspension was issued August 9, 1982, inviting interested parties to comment on the proposed action by August 19, 1982.

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

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

Notice of proposed rulemaking was published in the **Federal Register** (47 FR 34994) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded opportunity to file written data, views, and arguments thereon. The proponent of the suspension and a proprietary handler filed comments supporting the suspension. No opposing comments were received.

After considering all relevant material, including the proposal in the notice, and other available information, it is hereby found and determined that for the months of August 1982 through February 1983 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1076.13, paragraphs (c)(2) and (3).

Statement of Consideration

This action removes for August 1982 through February 1983 the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The order now provides that a cooperative association may divert up to 35 percent of its total member milk received at all pool plants or diverted therefrom during the months of August through February. Similarly, the operator of a pool plant may divert up to 35 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during the months of August through February.

The suspension was requested by Land O' Lakes, Inc., a cooperative association that supplies most of the market's fluid milk needs and handles most of the market's reserve milk supplies. The basis for the request is that milk supplies from its members, as well as from other dairy farmers, for the first seven months of 1982 is approximately 15 percent higher than for the same period of 1981. Additionally, the cooperative stated that the market's fluid milk sales are down approximately three percent. In view of this, the cooperative expects its reserve milk supplies during August 1982 through February 1983 to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. Without the suspension, the cooperative expects that some of the milk of its member producers who have regularly supplied the fluid market would have to be moved, uneconomically, first to pool plants and then to nonpool manufacturing plants in order to continue producer status for such milk during August 1982 through February 1983.

The lower fluid milk sales and increased receipts of producer milk indicate that a significantly higher proportion of the market's producer milk will have to be channeled to manufacturing outlets at least during the next several months. Under these supply-demand conditions, it is concluded that the market situation warrants a suspension of the diversion limitation percentages during August 1982 through February 1983. The suspension will provide greater flexibility in the handling of the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the most efficient method of handling milk not needed for the fluid market is by direct movements from producers' farms to manufacturing outlets. This suspension allows for such economical movements of milk while the dairy farmers involved retain producer status;

(b) This suspension does not require of persons affected substantial or

extensive preparations prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to comment. No opposing views were received.

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

List of Subjects in 7 CFR Part 1076

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of the order are suspended for August 1982 through February 1983.

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

Effective Date: September 3, 1982.

Signed at Washington, D.C., on: August 30, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-24229 Filed 9-2-82; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins; Conversion From Quarterly to Monthly Billing for All New REA and RTB Loans

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends Appendix A—REA Bulletins by revising REA Bulletin 20–9:320–12, Loan Payments and Statements. The revision announces a change from a quarterly billing cycle to a monthly billing cycle for all new REA or Rural Telephone Bank (RTB) loans. Existing loans will continue to be billed on a quarterly basis unless the borrower agrees to a monthly billing cycle. This revision will expedite the flow of funds into the U.S. Treasury and defer the need for Treasury to borrow.

EFFECTIVE DATE: August 31, 1982.

FOR FURTHER INFORMATION CONTACT: Jack Van Mark, Deputy Administrator, Rural Electrification Administration, Room 4053–S, U.S. Department of Agriculture, Washington, D.C. 20250; telephone (202) 382–9542. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.). This final action has been reviewed in accordance with Executive Order 12291, Federal Regulation. It 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 geographic regions; 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. This program is listed in the Catalog of Federal Domestic Assistance as: 10.850—Rural Electrification Loans and Loan Guarantees, 10.851—Rural Telephone Loans and Loan Guarantees, and 10.852—Rural Telephone Bank Loans.

Background

The proposed revision was published in the **Federal Register** on April 27, 1982, Volume 47, Number 81, page 17999, and allowed 60 days for public comments. Thirty-five public comments were received. In general terms, with the exception of one borrower, they expressed concern regarding: (1) The general financial difficulties REA borrowers are presently experiencing; (2) the cash flow problems that will exist under a monthly billing system; (3) the additional administrative expenses which will be incurred because of monthly debt service payments; and (4) the availability of staff within REA to handle both the additional work created as a result of monthly billing in addition to the existing work. One respondent attempted to define the impact in anticipated dollar costs; however, the values were calculated using as a basis possible loan requirements extending over future years and calculated the loss of approximately $4,000 of "opportunity cost of money." We expect that with the adoption of monthly billing most REA borrowers can offset any adverse effect on the availability of funds by reviewing and strengthening their current cash management procedures. While all the concerns expressed have some basis they are offset by the additional cash flow into the U.S. Treasury as a result of monthly billing of up to $6.2 million per year after approximately 3 years.

7 CFR Part 1701 Appendix A—REA Bulletins, is hereby amended by revising REA Bulletin 20–9:20–12, Loan Payments and Statements.

List of Subjects in 7 CFR Part 1701.

Administrative practice and procedure, Electric utilities, Telephone.

Dated: August 31, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-24394 Filed 9-2-82; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of LTU Lufttransport Unternehmen KG

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds LTU Lufttransport Unternehmen KG to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: August 12, 1982.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to 5 U.S.C. 552. The Commissioner of Immigration and Naturalization Service entered into an agreement with LTU Lufttransport Unternehmen KG on August 12, 1982 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agrement provides for the waiver of certain documentary requirements and facilitates the travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes editorial changes to the listing of transportational lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

PART 238—CONTRACTS WITH TRANSPORTATION LINES

Accordingly, 8 CFR is amended as follows:

§ 238.3 [Amended]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by:

Adding in alphabetical sequence, "LTU Lufttransport Unternehmen KG".

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1288))

Dated: August 31, 1982.

Andrew J. Carmichael, Jr.

Associate Commissioner Examination, Immigration and Naturalization Service.

[FR Doc. 82-24321 Filed 9-2-82; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 82-602]

Service Corporation Activities; Correction

August 31, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; correction.

SUMMARY: This document corrects cross references contained in final regulations that expanded service corporation investments by federal associations.

FOR FURTHER INFORMATION CONTACT: Peter M. Barnett, (202-377-6445), Associate General Counsel, or Cynthia D. Farmer (202-377-6472), Legal Assistant, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

On April 30, 1981, the Federal Home Loan Bank Board adopted amendments to its regulation governing the service corporation investments of Federal Associations. Board Resolution No. 81-208 (April 23, 1981); 46 FR 24526, (May 1, 1981). The final rule substantially revised the regulation in several respects. In making these amendments, some cross references that should have been amended inadvertently were left unchanged. By its action today, the Board corrects those cross references.

Accordingly, the Board is correcting FR Doc. 81-13258, appearing at 46 FR 24526, and amending § 545.9-1 as follows: (i) amend the reference to "§ 545.14(a)(3)" in subparagraphs (c)(12) and (d)(1)(iv) to read "§ 541.18"; and (ii) amend the reference to paragraph "(b)" in subparagraph (d)(3) to read "(b)(1)".

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 408, 48 Stat. 1261, as added by 73 Stat. 691, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 CFR 4891, 3 CFR 1943-48 Comp. p. 1071)

By the Federal Home Loan Bank Board.

Thomas P. Vartanian,

General Counsel.

[FR Doc. 82-24303 Filed 9-2-82; 8:45 am]

BILLING CODE 6720-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 618

General Provisions; Sale of Insurance by Farm Credit System Institutions

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit Board, adopts and publishes a new regulation which provides specific criteria regarding the sale of insurance by Farm Credit System institutions. Prior to 1980, the sale of insurance to members by Farm Credit System institutions was authorized under a general authority to offer financially related services to members. The Farm Credit Act Amendments of 1980 (Pub. L. 96-592) added to the Farm Credit Act of 1971 (1971 Act) a new Part E, § 4.29, "Sale of Insurance." This provision expressly recognizes the authority of the Farm Credit Administration to authorize, as a financially related service, the sale of insurance, limits the types of insurance that may be sold, and establishes the conditions under which the authority may be exercised.

EFFECTIVE DATE: October 3, 1982.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, 490 L'Enfant Plaza SW., Washington, D.C. 20578, (202-755-2181).

SUPPLEMENTARY INFORMATION: On March 25, 1982, the Farm Credit Administration (FCA) noticed and published for public comment a proposed amendment to 12 CFR Part 618 (47 FR 12806), which would add a new regulation § 618.8030. The Federal Farm Credit Board (Board) considered each of the comments received on the proposed amendment and adopted the final regulation at its August 2-4, 1982 meeting.

Thirteen commentators submitted views on the proposed new regulation. In response to one comment, § 618.8030(a) was clarified by adding "in the event of death or disability of the debtors" to the end of the first sentence. One commentator suggested that the second sentence of § 618.8030(b)(1) should be deleted because the provision would permit Farm Credit System (System) institutions to maintain a permanent insurance relationship with their members regardless of whether the insurance was necessary to protect outstanding loans. The Board rejected the suggestion and believes this provision is consistent with the intent of the provisions in the 1971 Act which authorize credit-related types of insurance.

One commentator stated that subsection (b)(3) should be amended to require a separate disclosure of the commissions on insurance. The Board rejected this recommendation, noting that the regulation requires that the total cost of the insurance must be disclosed to borrowers and that separate disclosure of individual components of the insurance costs, such as commissions, will not provide any additional benefit to purchasers.

Two commentators suggested adding the words "from insurers" to the end of subsection (b)(4), stating this would clarify the intent to preclude the receipt of benefits from insurance carriers but not preclude bank or association personnel from benefiting, directly or indirectly, from the sale of insurance. The Board rejected this suggestion because the regulation is designed to prohibit employees from receiving benefits associated with the sale of insurance from both the insurance carriers as well as the banks and associations.

Four commentators recommended changes for subsection (b)(5). Two of the commentators wanted to be certain term insurance can be sold in an amount equal to the loan commitment and that it will not have to be reduced during the loan period. One of the two commentators suggested adding the words "at the time of insurance issuance" to subsection (b)(5). The other two commentators felt the terminology of this subsection was unclear in that it implies that a bank or association can sell insurance to members of another bank or association. One of the two commentators recommended a rewrite of the subsection in order to clarify the intent. The Board agreed with the recommendations and the final

regulation has been rewritten accordingly.

With respect to subsection (b)(7), one commentator suggested that the subsection should include specific criteria to be used by the banks for evaluating insurance programs and companies. The Board believes that programs must be evaluated on the basis of specific criteria but that each bank should have the flexibility to tailor the criteria it will use to reflect the needs of its borrowers. Another commentator noted that subsection (b)(7) could be interpreted to allow an insurance company that was chosen by a production credit association (PCA) to negotiate individual contract terms with the PCA. The Board believes this interpretation is not in accord with the regulation since it provides that PCAs may only offer insurance as provided for by the Federal intermediate credit bank (FICB) for the entire district. One commentator stated that the regulation should provide that the approval of two or more insurers will only be required when there are two or more companies of sufficient strength and reputation that are interested in serving the PCAs in the district. The Board believes this commentator's concern was anticipatory and could be handled administratively if the situation arose. Another commented that the term "insurance programs" in the third line was vague. The Board agreed with this concern and the final regulation was rewritten. One of the commentators suggested the consolidation of subsections (b)(7) and (b)(14) because by having a separate subsection (b)(14) it may be construed that both FLBAs and PCAs must choose between two or more insurers approved by the district banks. The board accepted this suggestion and in the final regulation subsections (b)(7) and (b)(14) have been consolidated.

Four commentators expressed views regarding subsection (b)(8). In response to one comment, the regulation was amended to clarify that the banks may enter into agreements with master marketers selling Federal crop insurance. In response to a second comment, the board rejected the suggested addition of a new sentence which would specifically authorize the banks to provide administrative insurance training to association personnel. The Board believes the additional language is unnecessary since such training is clearly authorized as a "service traditionally furnished by insurers" provided for in the first sentence of this subsection. The Board rejected, as inappropriate, several suggested editorial comments.

Five comments were received regarding subsection (b)(9). Three commentators expressed the opinion that this subsection will impose redundant requirements on the associations which will cause unnecessary additional paperwork and increase costs. The Board believes these commentators misinterpreted the intent of the subsection. The regulation will not necessarily impose additional paperwork requirements on the banks and associations since required notices can be incorporated into existing loan documents. The regulation requires that whenever insurance sold or endorsed by a bank or association is offered to a borrower, the borrower must be notified that the insurance is optional. By requiring notice whenever insurance is offered, the regulation expands on the provisions of section 4.29 of the 1971 Act, which only requires notice when insurance is required as a condition for the loan. One commentator objected to the additional requirements in the regulation. The Board considered the objection but retained the regulation intact because of its belief that this additional notice requirement will clarify to borrowers that the purchase of sponsored insurance is optional and will also provide documentation to refute any potential allegations that borrowers were coerced into purchasing insurance offered by banks or associations. One of the commentators believed that the first sentence of the regulation could be interpreted to prohibit the associations from requiring some type of insurance as a condition to the extension of credit. The Board does not believe the regulation is reasonably subject to this misinterpretation since the first sentence only applies to "insurance sold or endorsed by a bank or association." The same commentator recommended the last sentence be clarified to say "the bank or association shall explain to the borrower that purchase of the insurance from the association is optional * * *." The Board agreed with the suggestion and the regulation was amended to include the recommended language.

One commentator expressed the view that the phrase in subsection (b)(10), "directly or indirectly, discriminate in any manner against * * *" was overly broad and subject to various interpretations. The Board disagreed with this comment and notes that the requirement in this subsection is consistent with the provisions of subsection (b)(11) and section 4.29(b)(3) of the 1971 Act.

One commentator suggested that subsection (b)(11) should be amended to provide for a biannual review of insurance programs in place of the current requirement for an annual review. The Board rejected this suggestion, noting that the annual review of insurance programs is identical to the review requirements imposed by the regulations on other financially related services.

Six commentators expressed views regarding subsection (b)(14). All of these commentators were concerned that the reference to associations included Federal land bank associations as well as production credit associations. One of the commentators suggested combining this subsection with subsection (b)(7) and specifying production credit associations. The Board believes the intent of legislation was to include only production credit associations and, therefore, accepted the suggestion and consolidated subsections (b)(14) and (b)(7) in the final regulation.

For the convenience of the reader, a redesignation table showing the former subparts of Part 618 and the new subparts is shown below.

REDESIGNATION TABLE FOR PART 618—GENERAL PROVISIONS

Subparts and sections	Previous subparts and sections
Subpart A—Technical Assistance and Financially Related Services.	
618.8000 Authorization	Same.
618.8010 District board policies	Same.
618.8020 Farm Credit Administration approval.	Same.
Subpart B—Member Insurance	New.
618.8030 Authorization	New.
Subpart C—Leasing	Subpart B—Leasings.
618.8050 Leasing authority	Same.
618.8060 Leasing limitations	Same.
Subpart D—Procedures and Guidelines.	Subpart C—Procedures and Guidelines.
618.8100 Farm Credit Administration	Same.
Subpart E—Nomination and Election of Directors.	Subpart D—Nominations and Elections of Directors.
618.8150 Federal Farm Credit Board	Same.
618.8160 District boards of directors	Same.
Subpart F—Miscellaneous Provisions	Subpart E—Miscellaneous Provisions.
618.8200 Publication of reports	Same.
618.8210 Conducting information programs.	Same.
618.8220 Contributions to and memberships in other organizations.	Same.
618.8230 Allocation of expenses for administrative services.	Same.
618.8250 Purchases and sales of personal property.	Same.
618.8260 Purchase of automobiles through General Services Administration.	Same.
618.8270 Travel	Same.
Subpart G—Releasing Information	Subpart F—Releasing Information.
618.8300 General regulation	Same.
618.8310 Lists of borrowers	Same.
618.8320 Data regarding borrowers and loan applicants.	Same.
618.8330 Director, officer, or employee summoned as witness.	Same.
618.8340 Information regarding personnel.	Same.
618.8350 Authority reserved to release information.	Same.

REDESIGNATION TABLE FOR PART 618—GENERAL PROVISIONS—Continued

Subparts and sections	Previous subparts and sections
Subpart H—Disposition of Obsolete Records.	Subpart G—Disposition of Obsolete Records.
618.8360 Authorization.	Same.
618.8370 Records disposal.	Same.
Subpart I—Federal Records.	Subpart H—Federal Records.
618.8380 Record material.	Same.
618.8390 Federal records in the districts.	Same.
618.8400 General Services Administration Regulations.	Same.
618.8410 Transfers to Federal Records Center.	Same.
618.8420 Requests for additional disposal authority.	Same.
Subpart J—Internal Controls.	Subpart I—Internal Controls.
618.8430 Internal controls.	Same.

List of Subjects in 12 CFR Part 618

Agriculture, Archives and records, Banks, banking, and Rural areas.

PART 618—GENERAL PROVISIONS

For the reasons set out in the preamble, Part 618 of Chapter VI, Title 12, of the Code of Federal Regulations is amended as shown:

Subparts B through I [Redesignated as Subparts C through J]

1. Subparts B–I are redesignated as Subparts C–J, respectively.

2. A new Subpart B consisting of § 618.8030 is added to Part 618 to read as follows:

Subpart B—Member Insurance

§ 618.8030 Authorization.

(a) Banks and associations may sell to any Farm Credit System borrowing member, on an optional basis, credit or term life and credit disability insurance appropriate to protect the loan commitment in the event of death or disability of the debtors. The sale of other insurance necessary to protect a member's farm or aquatic unit is permitted, but limited to hail and multiple peril crop insurance, title insurance, and insurance necessary to protect the facilities and equipment of aquatic borrowers.

(b) District board policies. District board policies governing the provision of member insurance programs require approval of the Farm Credit Administration. The policies shall be established within the following general guidelines:

(1) There must be a debtor-creditor relationship with a Farm Credit institution for a member to be eligible for authorized member insurance services. Coverage may continue after the loan has been repaid provided the member can reasonably be expected to borrow again within 2 years, provided such continuation of insurance is not contrary to State law. For hail and multiple peril crop insurance only, eligibility extends to landlords of tenants and tenants of landlords having a debtor-creditor relationship.

(2) Member insurance services may be offered only if:

(i) The bank or association has the capacity to render authorized insurance services.

(ii) There exists the probability that the service will generate sufficient revenue to cover all costs.

(iii) Rendering the insurance service will not have an adverse effect on the credit or other operations of the bank or association.

(3) All costs to members for insurance services provided shall be disclosed separately from interest charges.

(4) Bank or association personnel shall not benefit, directly or indirectly, from insurance sales by receipt of commissions, gifts, or incentive awards.

(5) Term insurance may be written for the amount of coverage desired by the member, but in no case may the amount of term insurance, credit life insurance, or a combination of the two with an institution of the System, be in excess of total loan commitments to the member by the institution writing the insurance.

(6) The banks shall prescribe reasonable standards for financial condition and quality of service to be met by private insurers.

(7) In making insurance available through private insurers, the Federal intermediate credit banks shall approve the program of at least two insurers for each type of insurance offered in the district. The banks may provide comparative information relative to costs and quality of approved programs and financial condition of approved companies. However, the production credit associations must be left to choose from among the programs offered by the two or more approved insurers.

(8) The banks may, only be agreement with an insurer, offer services traditionally furnished by insurers to the Farm Credit System. This shall include master marketers when considering the sale of Federal crop insurance. The banks shall not underwrite insurance, adjust claim payments or settlements, or train and school or service adjustors or insurance agents.

(9) No bank or association shall, directly or indirectly, condition the extension of credit or provision of other service on the purchase of insurance sold or endorsed by a bank or association. At the time insurance sold or endorsed by a bank or association is offered to a borrower, a bank or association shall present a written notice that the service is optional. The notice shall be in prominent type and separately signed by the borrower. The bank or association shall explain to the borrower that purchase of insurance from the association is optional and that the borrower will not be discriminated against for obtaining the insurance elsewhere.

(10) No bank or association shall, directly or indirectly, discriminate in any manner against any agent, broker, or insurer that is not affiliated with such bank or association, or against any party who purchases insurance through any such nonaffiliated insurance agent, broker, or insurer.

(11) The bank shall review annually, or more frequently if necessary, the individual association member insurance services which have been approved by the bank to ascertain that the regulatory guidelines and bank policies are being followed. Results of these reviews shall be incorporated in the review and evaluation of the bank's program. The bank's evaluation of the program shall be presented to the bank board annually.

(12) Bank supervision shall ensure that insurance services offered by approved insurers consistently provide association borrowers with a high quality and cost-effective service as prescribed by policies of the bank's board of directors, but such supervision shall be without any coercion or suasion from any bank in favor of any agent or insurer.

(13) Records must be maintained by banks and associations in sufficient detail to facilitate the review and supervision required herein.

(Sec. 4.29, Pub. L. 92–181, as added by Pub. L. 96–592 section 404, 94 Stat. 3448, 12 U.S.C. 2218).

Donald E. Wilkinson,

Governor.

[FR Doc. 82–24376 Filed 9–2–82; 8:45 am]

BILLING CODE 6705–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1201

Statement of Organization and General Information; Correction

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule; correction.

SUMMARY: On May 13, 1982, NASA published in the **Federal Register** (47 FR 20571–20573) its revision to 14 CFR Part 1201, Statement of Organization and General Information. Upon publication of the final rule, it was noticed that the last line of § 1201.400, paragraph (c), read "annual subscription basis," and it should have read "subscription basis." The purpose of this document is to correct that error.

EFFECTIVE DATE: September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Margaret M. Herring, 202–755–3140.

PART 1201—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

Subpart 4—General Information

Accordingly, 14 CFR Part 1201 is revised by correcting § 1201.400, paragraph (c) to read as follows:

§ 1201.400 NASA procurement program.

* * * * *

(c) All procurements are made in accordance with the NASA Procurement Regulation (41 CFR Ch. 18). With minor exceptions, every proposed procurement in excess of $10,000 is publicized promptly in the Commerce Business Daily. Copies of this publication are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, on a subscription basis.

(5 U.S.C. 552, as amended)

Margaret M. Herring,

Federal Register Liaison Officer.

[FR Doc. 82-24375 Filed 9-2-82; 8:45 am]

BILLING CODE 7510-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release Nos. 33-6421; 34-19004; 35-22613; IC-12611; FR-3]

Interpretive Release Relating to Accounting for Extinguishment of Debt

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: Recently, questions have arisen as to the proper accounting treatment for transactions intended to have the same substantive effect as a legal extinguishment of debt, even though the debtor's obligations are not in fact discharged as a legal matter. The Financial Accounting Standards Board (FASB) has announced its tentative conclusion that debt should not be considered as extinguished unless the debtor has no further legal obligation, and has added this subject to its agenda. Pending issuance of a final standard by the FASB, the Commission believes that all registrants should follow the FASB's tentative decision as to the requirements of generally accepted accounting principles. Although arguments exist for alternative accounting methods, the Commission believes that financial reporting should be consistent during the interim period while the FASB is considering a final standard.

FOR FURTHER INFORMATION CONTACT: M. Elizabeth Rader (202/272–2130), Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

Background

Recently, there has been an increasing level of interest in so-called "quasi-defeasance" [1] or "in substance defeasance" arrangements. Several such transactions have already been consummated. As described further below, these transactions may take various forms, but in essence they all involve arrangements whereby assets are dedicated to the future servicing and repayment of currently outstanding debt. The debt is then accounted for as being extinguished although, under the terms of the debt agreement, it may not have been legally satisfied and related liens may not have been released. The fundamental question raised is whether there are certain circumstances when a transaction may be accounted for as an "extinguishment of debt" even though there is no legal discharge.

Because existing generally accepted accounting principles do not provide explicit guidance for most transactions of this nature, the Financial Accounting Standards Board has recently added a project on this subject to its agenda and has published its tentative decisions on the issues.

Although arguments have been advanced that some transactions are functionally equivalent to legal defeasance and thus should be accounted for as such, pending issuance of a final FASB standard, the Commission has concluded that it is not desirable to have the possibility of inconsistent accounting practices, especially since the FASB has explicitly indicated its tentative determination that debt should not be accounted for as extinguished unless the debtor has no further legal obligation. The Commission believes it is appropriate to support the FASB in this matter and accordingly is issuing this release calling for uniform accounting practice while the FASB considers its final standards. During this process, there will be full opportunity for public participation and discussion of the appropriate accounting in this area. At the time the FASB issues a final standard, the Commission will reconsider the need for its guidance.

Nature of Transactions

Although there are many possible variations on the "quasi-defeasance" transaction, most arrangements are either of the "trust" or the "assumption" type. Under either approach, the debtor corporation dedicates certain assets to the future retirement of outstanding debt. Based on this commitment, the debtor then removes both the assets and the debt from its balance sheet. In the "trust" type of transaction, the debtor actually purchases a portfolio of securities (often United States government issues) and places them with a trustee who then assumes the responsibility of servicing the debt using the income and principal from the securities. The amount of the securities is calculated so that their income plus capital appreciation (accretion) will be sufficient for these purposes.

The "assumption" arrangement does not require a trust. Instead, the company or its banker/investment banker arranges for a third party group of investors to assume the principal and interest payments in return for a current cash payment. The transaction may be, but need not be, further secured by a guarantee or letter of credit from the banker, and there are no necessary restrictions on the investors' use of the funds received. Because current high interest rates generally allow the debtor to provide for the future servicing and redemption by committing assets (either securities or cash) in an amount less than the book carrying value of the debt, the debtor corporation also recognizes an immediate gain on this so-called "extinguishment of debt" under either the "trust" or the "assumption" approach.

In most cases, neither of these approaches results in any actual transfer or satisfaction of the debtor corporation's legal liability. The debtholders continue to look to the debtor corporation for repayment, and

[1] "Defeasance" refers to *legal* satisfaction of debt and release of any related liens pursuant to a provision in the debt instrument, even though the debt may not be formally retired. The term "quasi-defeasance" refers to transactions intended to satisfy the debt obligations in substance although there is no legal discharge of the liability.

the debtholders may not even be aware of the transaction. Accordingly, in the "trust" arrangement, the debtor faces the risk of additional liability equal to the difference between the face value of the debt and the then market value of the collateral securities in the event the debt becomes immediately due because of a breach of debt covenants by either the debtor or the trustee. In case of bankruptcy, it is also unclear whether the dedicated assets are legally insulated from other creditors. Under the "assumption" approach, the debtor faces the same risks from breach of covenant, as well as the additional risk that the investor may not make all payments when due. Since there are no collateral securities, the debtor is potentially liable for the full face value of the debt plus any unpaid interest.

Tentative Decisions of the FASB

In the *Action Alert* dated August 11, 1982, the FASB announced its tentative decisions on the circumstances which constitute an extinguishment of debt under Accounting Principles Board Opinion No. 26, "Early Extinguishment of Debt." The FASB stated that debt should not be considered as extinguished and no gain or loss recognized unless the debtor has no further legal obligation with respect to the debt. The FASB also announced that it will consider, as part of its project on the circumstances which constitute an extinguishment of debt, whether it should adopt or modify the provisions of the AICPA's Statement of Position No. 78–5 (SOP 78–5), "Accounting for Advance Refundings of Tax-Exempt Debt," which specifies certain circumstances short of a legal defeasance in which an advance refunding may be accounting for as an extinguishment of debt. However, the FASB announced no tentative conclusion to modify the applicability of SOP 78–5 [2] in the interim period before completion of its project.

Conclusion

Pending issuance of a final standard by the FASB, the Commission has concluded that registrants should account for debt extinguishments in a manner consistent with the tentative decisions announced in the FASB *Action Alert*. Accordingly, except in the limited circumstances described in SOP 78–5, debt should not be accounted for as extinguished, and gain or loss should not be recognized, unless all of the debtor's legal obligations with respect to the debt have been fully discharged.

Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release 1 (April 15, 1982) (47 FR 21028) is updated to:

1. Add a new Section 217, entitled as follows:

217 Accounting for Extinguishment of Debt

2. Include in Section 217 the sections of this release entitled "Background," "Nature of Transactions," "Tentative Decisions of the FASB," and "Conclusion" numbered as specified below:

.01 Background
.02 Nature of Transactions
.03 Tentative Decisions of the FASB
.04 Conclusion

This codification is a separate publication issued by the SEC. It will not be published in the **Federal Register**/Code of Federal Regulations system.

List of Subjects in 17 CFR Part 211

Accounting, Reporting requirements, Securities.

Commission Action

Subpart A of 17 CFR Part 211 is amended by adding thereto reference to this release (Release No. 3).

By the Commission.

George A. Fitzsimmons,

Secretary.

August 24, 1982.

[FR Doc. 82-24069 Filed 9-2-82; 8:45 am]

BILLING CODE 8010-01-M

[2] FASB Statement of Financial Accounting Standards No. 32, "Specialized Accounting and Reporting Principles and Practices in AICPA Statements of Position and Guides on Accounting and Auditing Matters," designated SOP 78–5 as preferable accounting principles for purposes of applying Accounting Principles Board Opinion No. 20, "Accounting Changes." Also, FASB Statement of Financial Accounting Standards Statement No. 22, "Changes in Lease Agreements Resulting from Refundings of Tax-Exempt Debt," specifies the accounting for changes in lease provisions resulting from advance refundings of tax-exempt debt that are subject to SOP 78–5.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM82-40-000; Order No. 257]

Final Rule To Eliminate Steam-Electric Plant Air and Water Quality Control Data; Form No. 67

Issued: August 31, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) eliminates its Form No. 67, "Steam-Electric Plant Air and Water Quality Control Data". Form No. 67 is superseded by Form No. EIA–767, which is jointly sponsored by the Commission, the Energy Information Administration, and the Assistant Secretary of Nuclear Energy in the Department of Energy, the Environmental Protection Agency, and the Bureau of Economic Analysis in the Department of Commerce. The EIA–767 differs from Form No. 67 in that data not needed by any of the sponsors have been deleted from the form and the reporting threshold has been raised to 100 megawatts. The Commission also revises § 141.59 of its regulations to provide for the filing of the new form.

EFFECTIVE DATE: This rule is effective on August 31, 1982.

FOR FURTHER INFORMATION CONTACT:

Alexander Gakner, Federal Energy Regulatory Commission, Office of Electric Power Regulation, 825 North Capitol Street, N.E., Room 507H RB, Washington, D.C. 20426 (202) 376–9369;

Cathy Ciaglo, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, N.E., Room 8104–B, Washington, D.C. 20426 (202) 357–8033.

SUPPLEMENTARY INFORMATION:

A. Introduction

The Federal Energy Regulatory Commission (Commission) is eliminating Form No. 67, "Steam-Electric Air and Water Quality Control Data". Form No. 67 is superseded by the Form No. EIA–767, also entitled, "Steam-Electric Air and Water Quality Control Data". The EIA–767 is an abbreviated version of the Form No. 67 and is jointly sponsored by this Commission, the Energy Information Administration (EIA), the Assistant Secretary of Nuclear Energy in the Department of Energy, the Environmental Protection Agency (EPA), and the Bureau of Economic Analysis in the Department of Commerce. The Commission also revises the regulations at 18 CFR 141.59 to provide for the filing of EIA–767.

The Commission's elimination of Form No. 67 and cosponsorship of the modified EIA–767 are part of the Commission's ongoing program to review and evaluate all of the data that are required by the Commission for regulatory purposes and to eliminate unnecessary reporting burdens.

B. Background

Form No. 67 was initiated by the Commission in 1970 in cooperation with the National Air Pollution Control Administration and the Federal Water Pollution Control Administration, both predecessor agencies of the Environmental Protection Agency (EPA).[1] The form was prescribed in § 141.59 of the Commission's regulations and was collected pursuant to the Commission's authority under sections 304, 309 and 311 of the Federal Power Act.[2]

Form No. 67 prescribed information to be submitted annually concerning the quality of fuel used in steam-electric generating plants of 25 megawatts or more, the costs of the plants' facilities and other data related to their operation and maintenance regarding the amounts and kinds of particulates and sulfur dioxides they emitted, and data on any heat emissions and matter discharged into waters by fossil and nuclear-fueled steam electric generating plants. Certain information in the form was used by the Commission in electric rate proceedings for the evaluation of fuel use. Some of the data in the form were also used by other agencies namely, EIA and other offices within the Department of Energy, EPA, and the Department of Commerce, to evaluate the effects of utility plant operations on air and water quality. However, many of the data in the Form No. 67 are no longer needed by this Commission or by the other agencies to perform their statutory responsibilities.

As a result of the Commission's review of its regulatory data requirements and the other agencies' review of their responsibilities, these agencies have jointly introduced a form to replace Form No. 67. It is designated as Form No. EIA–767 and, like Form No. 67, is entitled, "Steam-Electric Plant Air and Water Quality Control Data". EIA issued a notice concerning this new form on February 22, 1982 (47 FR 8621, March 1, 1982).[3] The form is jointly sponsored by this Commission and the above-named federal offices and is designed to accommodate the information needs of each of these agencies, without requiring burdensome and duplicative reporting. EIA's notice also provided that the reporting threshold for the EIA–767 would be increased from 25 megawatts to 100 megawatts in order to eliminate an unnecessary filing burden on smaller plants.[4] In addition, the notice provided that several data elements would be entirely deleted from the form.[5] The remaining elements would be "sponsored" by at least one of the agencies interested in the form. Although the form is sponsored by five offices or agencies, the filing companies would have to submit the form to only one agency (EIA), which would distribute copies of the form to each of the cosponsors. This procedure would minimize the reporting burden for the filing companies.

EIA also stated in its notice that the revisions to the form would only be applicable to the filing of 1981 calendar-year data. The form would be "extensively redesigned" in time for the filing of calendar year 1982 data, to simplify it and reduce respondent burdens even further.

In response to the notice, EIA received eleven comments. Most of the comments pertained to matters that are of only general concern to this Commission or of specific concern to other sponsors of the form. One commenter, however, recommended the review of certain data in the new form that are sponsored by this Commission. The commenter stated that Part I, Schedule A, Section 1, "Plant Fuel Consumption Data" reports fuel consumption on a monthly basis; therefore, fuel consumed monthly by each plant's boiler (Part I, Schedule B, Section 1) should not also have to be reported. The Commission, however, needs these data as part of its evaluation of the boiler's efficiency in converting coal to electrical energy. To make a proper evaluation these data must be reported month-by-month.

This Commission supports the adoption of EIA–767 and the resulting elimination of data from the old Form No. 67. The Commission does not need any of the deleted items to perform its regulatory duties. The Commission also notes that it will be actively involved in the redesign of EIA–767, to assure that any further revisions to the form will include data required by the Commission to perform its regulatory functions.

The Commission revises its regulations at § 141.59 which had prescribed the filing of Form No. 67. The regulations now provide for the filing of Form No. EIA–767, and include the deadlines for filing the annual report in 1982 and in subsequent years.

C. Public Procedure and Effective Date

This is a final rule, prior notice and comment having been afforded by EIA in its notice of February 22, 1982. The Commission believes that there is good cause to make this final rule effective August 31, 1982. This is because the EIA and other agencies will require the collection of calendar year 1981 data on EIA–767 on September 15, 1982 and the Commission should be in conformance.

(Federal Power Act, 16 U.S.C. 792–828c; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142.)

List of Subjects in 18 CFR Part 141

Statements and reports (schedules).

In consideration of the foregoing, the Commission amends Part 141 of Title 18, Chapter I, *Code of Federal Regulations* effective August 31, 1982, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 141—STATEMENTS AND REPORTS

Section 141.59 is revised to read as follows:

§ 141.59 Form No. EIA–767, Steam-Electric Plant Air and Water Quality Control Data.

(a) *Requirement to file.* Every electric utility described in paragraph (b) of this section must file the form EIA–767, "Steam-Electric Plant Air and Water Quality Control Data", in conformance with this section:

(1) On or before September 15, 1982, for calendar year 1981; and

[1] Order No. 412, Docket No. R–382, issued October 22, 1970 (35 FR 16830, October 31, 1970). Form No. 67 has been revised twice: by Order No. 492, Docket No. R–465, issued September 26, 1973 (38 FR 27605, October 5, 1973); and by Order No. 552, Docket No. R–465, issued July 13, 1976 (41 FR 29665, July 19, 1976).

[2] The Commission is authorized to regulate electric utilities engaged in interstate commerce under Part II of the Federal Power Act (16 U.S.C. 792–828c), pursuant to section 402 of the Department of Energy Organization Act (42 U.S.C. 7172(b)). The Commission collected information in the Form No. 67 under sections 304 and 311 of the Federal Power Act pursuant to a delegation of authority from the Secretary of Energy to the Commission (Delegation Order No. 0204–1 (October 1, 1977)). § 141.59 of the Commission's regulations was promulgated under authority of section 309 of the Federal Power Act.

[3] The Office of Management and Budget (OMB) has approved the collection of EIA–767, pursuant to the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 101, *et seq.*). OMB has issued separate clearance numbers to each of the agencies cosponsoring the burden associated with the form. The OMB clearance number assigned to the Commission for the burden in the form that it sponsors is 19020034.

[4] This Commission recommended the increase in threshold to 100 megawatts. This is because the increase in average plant size has forced more small companies to file the form than were originally intended to file. The 100 megawatt threshold should provide sufficient detail for the purposes of the Commission and the other agencies without creating a reporting burden on smaller companies.

[5] *See* 47 FR 8621, 8622 for a list of the deleted items.

(2) On or before May 1st of each subsequent year for the previous calendar year.

(b) *Who must file.* Every electric utility company having plants that either had during 1981, or are projected to have before 1989, a steam-electric capacity of 100 megawatts or greater must prepare and file for each such plant an original and conformed copies of EIA–767 pursuant to the General Instructions set out in that form.

[FR Doc. 82–24387 Filed 9–2–82; 8:45 am]
BILLING CODE 6717–01–M

18 CFR Part 157

[Docket Nos. RM81–19–000 through RM81–19–009; Order No. 234–A]

Interstate Pipeline Certificates for Routine Transactions

Issued: August 31, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting in part and denying in part applications for rehearing.

SUMMARY: On May 28, 1982, the Federal Energy Regulatory Commission (Commission) issued a final rule (47 FR 24254, June 4, 1982) to provide procedures for the issuance of "blanket" certificates of public convenience and necessity under Section 7 of the Natural Gas Act. Nine persons filed applications for rehearing of the final rule. For the reasons discussed in the order, the Commission grants in part and denies in part the applications for rehearing.

EFFECTIVE DATE: August 31, 1982.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

Order Granting in Part and Denying in Part Applications for Rehearing

Issued: August 31, 1982.

I. Introduction

On May 28, 1982, the Federal Energy Regulatory Commission (Commission) issued in this docket final regulations to provide procedures for the issuance of blanket certificates of public convenience and necessity under Section 7(c) of the Natural Gas Act. That rule, which became effective July 6, 1982, amended Part 157 by adding Subpart F (§§ 157.201 through 157.218) to provide for interstate pipeline blanket certificate and abandonment authorization for certain activities.[1]

The Commission has received nine timely applications for rehearing of the final rule.[2] On July 26, 1982, the Commission issued an order granting rehearing of the final rule for purposes of further consideration.

II. Background

The final rule amended Parts 157, 284 and 375 of the Commission's regulations to provide procedures for the issuance of "blanket" certificates of public convenience and necessity under Section 7 of the Natural Gas Act. Under the final rule, Subpart F of Part 157 of the Commission's regulations provides for the one-time issuance to an eligible interstate pipeline of a blanket certificate which would authorize each pipeline, subject to certain conditions and procedures, to undertake a number of activities. These activities include (1) construction, acquisition, operation, and miscellaneous rearrangement of facilities, (2) construction and operation of sales taps, (3) changes in delivery points, (4) storage services, (5) an increase in storage capacity, (6) underground storage testing and development, (7) abandonment, (8) changes in rate schedules, and (9) changes in a customer's name. Upon acceptance of a blanket certificate, an interstate pipeline is automatically authorized to undertake certain activities without prior notification to the Commission (automatic authorization) and is authorized to undertake other activities only after the Commission has been notified, interested parties have been afforded the opportunity to file a protest, and any protests so filed have been withdrawn pursuant to specified procedures (notice and protest procedure). The final rule also amended § 375.307 of the Commission's regulations to authorize the Director of the Office of Pipeline and Producer Regulation to issue blanket certificates pursuant to Subpart F of Part 157. In addition, the final rule amended § 248.201 of the Commission's regulations to extend the Order No. 30 program through the ninetieth day following the effective date of the final rule to be issued in Docket No. RM81–29–000.

III. Discussion

A. Applicability of the Blanket Certificate Program

In § 157.204(a) of the Notice of Proposed Rulemaking,[3] the Commission proposed to permit any interstate pipeline company to apply for a blanket certificate. Under the final regulations, however, § 157.204(a) was revised so that the blanket certificate program applies only to interstate pipelines which have been issued a certificate of public convenience and necessity under Section 7 of the Natural Gas Act and which have rates accepted by the Commission.

Lone Star objects to the revision, claiming that the requirement that an interstate pipeline have rates on file with this Commission would exclude from the blanket certificate program an interstate pipeline, such as Lone Star, which transports gas in interstate commerce for itself but makes no sales for resale.

As stated in the final rule (*Mimeo* at 10–11), the revision was made because certain authorizations under the blanket certificate are predicated upon previous findings and filings in which jurisdictional entities would have been involved. The blanket certificate program is not designed to accommodate such initial findings or filings, but presumes that the certificate holder will have established some previous jurisdictional and informational base with the Commission concerning such matters as rates, system supplies, and certificated customers. Accordingly, the Commission denies Lone Star's request that the requirement to have rates on file with the Commission be deleted.[4]

B. Filing Requirements Under the Notice and Protest Procedure

A certificate holder seeking authority to engage in activities which are subject to the notice and protest procedure must file the information required in § 157.205(b). Section 157.205(b)(3) requires the certificate holder to file the

[1] "Docket No. RM81–19–000, Order No. 234, 47 FR 24254 (June 4, 1982); FERC Stat. & Reg. ¶30,368.

[2] Lone Star Gas Company, a Division of ENSEARCH CORPORATION (Lone Star) (Docket No. RM81–19–001), Texas Eastern Transmission Corporation and Transwestern Pipeline Company (Joint) (TETCO-Transwestern) (Docket No. RM81–19–002), United Gas Pipe Line Company (United) (Docket No. RM81–19–003), Columbia Gulf Transmission Company (Columbia Gulf) (Docket No. RM81–19–004), Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) (Docket No. RM81–19–005), Transcontinental Gas Pipe Line Corporation (Transco) (Docket No. RM81–19–006), General Motors Corporation (General Motors) (Docket No. RM81–19–007), Interstate Natural Gas Association of America (INGAA) (Docket No. RM81–19–008) and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) (Docket No. RM81–19–009).

[3] Docket No. RM81–19–000, 46 FR 16903 (March 16, 1981).

[4] Lone Star's existing budget authorization for gas supply facilities under § 157.7(b) of the regulations will not be affected by the blanket certificate program.

information required in §§ 157.208 through 157.218, as applicable.

General Motors states that the information required in a request to construct and operate new sales taps (§ 157.211), to change delivery points (§ 157.212), or to provide new storage services (§ 157.213) may be insufficient to permit the Commission or interested parties to determine whether the proposed action will have serious adverse consequences on pipeline rates or service. General Motors urges that for these types of proposed activities, a certificate holder should be required to provide information regarding new peak day and annual sales volumes and requirements, newly attached end uses, any impact on load factors and load profile, and the adequacy of the gas supply to serve new and existing customers. General Motors contends that requiring the certificate holder to provide the additional information in its request for authorization and in the notice published in the **Federal Register** for these three types of service might avoid unnecessary protests and would enable the Commission to perform its duties more efficiently.

The Commission agrees that requiring additional information to be filed in the request for authorization of these activities will prevent the filing of unnecessary protests. As stated in the final rule, the notice and protest procedure is designed to enable pipelines to construct relatively minor facilities and undertake relatively routine services without the burdens of a case-specific determination. Because of the time deadlines associated with the notice and protest procedure, persons who may be affected by a proposed facility or service have a greater need to be able to assess promptly the impact of proposed facilities or services. A description of the significance of proposed services or facilities would enable intervenors to decide whether to protest a particular request. In addition, any protests that are submitted should be more focused if the additional information is provided.

Requiring certificate holders to submit additional data in connection with certain activities described in §§ 157.211 through 157.213 will assist staff and interested persons in evaluating the impact of a certificate holder's proposed actions on its existing service. The additional data include end-use data and data reflecting the impact of the requested additional service and facilities on peak day and annual deliveries. Consequently, §§ 157.212 and 157.213 of the regulations are amended to require certificate holders to include in their application a description of the end-use of the gas.[5] In addition, §§ 157.211 through 157.213 are amended to require a description, with supporting data, of the impact of the proposed activity on peak day and annual deliveries. With respect to a request for authorization of storage services, the revised regulations also require such data to be submitted with respect to a proposed recipient of the service if the recipient is an interstate pipeline. The revised Form 15, however, provides sufficient gas supply data to enable staff and others to estimate the impact of proposed activities on existing service. The Commission, therefore, does not believe that additional information concerning gas supplies is necessary for purposes of the notice requirements.

In addition, the Commission expects that the draft notice submitted under § 157.205(b)(5) will contain a summary of the additional information required by this order in such detail as to enable the public to make a preliminary evaluation of the impact of the proposed facility or service upon the certificate holder's operations.

C. Withdrawal of Protests

Activities listed in § 157.205(a) are not authorized by a blanket certificate unless the notice requirements in § 157.205 have been fulfilled and either (1) no protests have been filed or (2) all protests have been withdrawn pursuant to the procedures in § 157.205(g). Protests must be filed within 45 days after the date of issuance of a notice of the request for authorization. Section 157.205(f) provides for a reconciliation period of 30 days from the deadline for filing protests, during which time the certificate holder may attempt to resolve issues raised in the protests. Under § 157.205(g), a protestor may withdraw a protest during the reconciliation period provided that the certificate holder, the protestor, all intervenors, and staff concur in the withdrawal. If all protests are not resolved and withdrawn within the 30-day reconciliation period, the request filed by the certificate holder must be treated as an individual application for authorization for the particular activity under Section 7 of the Natural Gas Act.

Both INGAA and TETCO-Transwestern object to the requirements of § 157.205(g). INGAA contends that if both the protestor and certificate holder agree that a protest should be withdrawn, there remains no valid reason for requiring the concurrence of all intervenors and staff. INGAA suggests that the Commission require the protestor only to notify the Commission that an agreement has been reached and that both staff and all intervenors have been notified of the agreement. TETCO-Transwestern contends that requiring the concurrence of all intervenors within the 30-day reconciliation period may pose logistical problems in cases where there are numerous intervenors.

Because the types of activities authorized under the blanket certificate program are generally routine activities, the Commission expects that most requests filed under the notice and protest procedure will not induce a multitude of interventions. Nonetheless, requiring protestors to obtain the concurrence of all intervenors may impose an unwarranted administrative burden in light of the ease with which other persons are able to protect their interests by filing protests themselves.

Obtaining the consent of the Commission's staff, however does not involve the same type of burden. More importantly, requiring the staff's consent to any withdrawal of a protest ensures that the public interest is adequately protected. Therefore, § 157.205(g) of the final rule is revised to require the protestor to obtain the concurrence only of the certificate holder and staff.

D. Future Amendments to the Blanket Certificate Regulations

Section 157.206(a)(1) of the final rule conditions any blanket certificate to reserve the Commission's right to amend Subpart F so as to add or delete authorized activities and to add, delete or modify the standard conditions and any procedural requirements. This provision affords the Commission maximum flexibility consistent with due process requirements to revise the regulations, and consequently the blanket certificates, if changing circumstances or experience so warrant. Michigan Wisconsin requests clarification that this section of the regulations does not authorize retroactive amendments of the regulations, but only prospective amendments and amendments applying to facilities acquired and activities undertaken after any amendment would take effect.

Section 157.206(a)(1) indicates that the Commission may modify Subpart F from time to time, thereby reserving the right to modify the conditions or scope of outstanding blanket certificates. The Commission anticipates that any such amendments would most likely not affect facilities constructed or services undertaken before the effective date of

[5] Section 157.211 of the regulations already requires end-use information.

an amendment, but would apply prospectively to services undertaken and facilities acquired after the amendment takes effect. Nonetheless, the regulation has been drafted to provide the Commission maximum flexibility, which, in light of the experimental nature of the blanket certificate program, is consistent with the public interest. Should the Commission decide to revise the blanket certificate regulations, it will do so in a manner consistent with due process requirements and applicable law.

E. Production Related Costs—Allocation of Transportation Costs of Liquids and Liquefiables

Under § 157.206(b) and (c) of the final regulations, blanket certificates are conditioned with respect to the recovery of production-related costs and the apportionment of the costs of facilities and transportation services between: (1) The transportation and handling of liquids, liquefiables and non-hydrocarbon constituents which are ultimately removed from the gas stream; and (2) the transportation and handling of natural gas. The final rule reflects present Commission policy on production-related costs, as expressed in Order No. 94[6] and Opinion No. 90,[7] and on the allocation of costs for transportation of liquids and liquefiable hydrocarbons, as expressed in *Trunkline Gas Company*, 14 FERC ¶ 61,222 (1981). The conditions contained in § 157.206(b) and (c) are substantially the same as those the Commission currently incorporates, when appropriate, in case-specific certificates.

Five applicants contest the conditions imposed by § 157.206(b) and (c). TETCO–Transwestern, United, Transco, Michigan Wisconsin and INGAA request that the conditions be deleted, or, in the alternative, that they be made subject to the outcome of the rehearing of Order No. 94 and Opinion No. 90[8] and the outcome of those individual certificate proceedings in which the conditions are currently contested. Michigan Wisconsin contends that the propriety of imposing these conditions on blanket certificates should be set for hearing. United objects that the two conditions will apply to activities undertaken after issuance of a blanket certificate without any subsequent finding that applying such conditions to the specific activities is justified. Finally, TETCO–Transwestern raises the objections it raised on rehearing of Order No. 94 and Opinion No 90.

Because these issues are presently being considered in other proceedings, the Commission will not decide these issues in this docket. These conditions are imposed in the blanket certificate program to reflect the Commission's current policy for treatment of such costs. Upon resolution of these issues in the other pending proceedings, the Commission expects to amend the blanket certificate regulations to reflect the outcome of those proceedings. Accordingly, the Commission continues to grant rehearing of these issues solely for the purpose of further consideration.

F. Environmental Compliance

Section 157.206(d)(2) provides that all activities undertaken by the certificate holder pursuant to the blanket certificate shall be consistent with all applicable laws including the twelve environmental statutes and orders enumerated in the regulation.

Tennessee objects to this provision, arguing that the regulation represents the wholesale incorporation of existing environmental statutes and regulations thereby rendering the section unduly burdensome, and usurps the authority of other agencies having primary jurisdiction over these environmental matters. Tennessee asserts that the enumerated environmental statutes constitute independent regulatory programs which Congress entrusted to agencies other than the Commission, and that enforcing these statutes falls outside the Commission's jurisdiction and enforcement powers under the Natural Gas Act. Consequently, the Commission's condition subverts Congressional intent by interfering with enforcement provisions already established by the environmental laws themselves. In addition, Tennessee asserts that Executive Order No. 11,990, 3 CFR 121 (1978), which requires all Federal agencies to minimize the destruction, loss or degradation of wetlands, does not apply to the issuance by Federal agencies of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal propety. Moreover, Tennessee contends that the Wild and Scenic Rivers Act applies only to the Commission's licensing of hydroelectric or water resources projects under the Federal Power Act and not to activities undertaken pursuant to the Natural Gas Act. Finally, Tennessee contends that § 157.206(d)(2) should be amended so that the list of environmental statutes is informational rather than prescriptive.

The Commission does not agree with Tennessee's assertions. The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, requires that all public laws and regulations of the United States be administered in a manner consistent with NEPA's policy of environmental protection. That requirement applies to the Commission when it issues to pipelines certificates of public convenience and necessity under the Natural Gas Act. Specifically, NEPA requires that the Commission determine whether its actions constitute major Federal actions which are likely to have a significant impact on the quality of the human environment.

As stated in the final rule (*Mimeo* at 40), the Commission has determined, in accord with its NEPA responsibilities, that the final rule is not a major Federal action likely to have a significant impact on the quality of the human environment. Authorizations are provided generically under the blanket certificate rule for specific types of pipeline activities. The Commission has undertaken to comply with NEPA by restricting the blanket authorizations in a manner consistent with its experience in performing case-specific environmental review for hundreds of cases like the one authorized under blanket certificates. The Commission has adopted a prudent means of ensuring that environmentally harmful projects would not be authorized under the blanket certificate. Therefore, only those activities are authorized which fall within the parameters of the blanket certificate program and satisfy the environmental conditions of § 157.206(d), including compliance with the requirements of the listed environmental laws or their implementing regulations.

In other words, the Commission's determination that the final rule is not a major Federal action depends, in part, on the fact that the rule makes compliance with the enumerated environmental laws administered by other agencies a condition to authorization of otherwise qualified activities under a blanket certificate. Where an activity does not satisfy this condition, the regulation subjects the activity to the scrutiny of case-specific review.

Tennessee's assertion regarding Executive Order No. 11,990 may be accurate, but it does not support Tennessee's conclusion. Although Executive Order No. 11,990 does not apply to wetlands on non-Federal

[6] Docket No. RM80–47, Order No. 94, 95 *Fed. Reg.* 53099 (Aug. 11, 1980), FERC Stat. & Reg., Reg. Preamb. 1977–1980, ¶ 31,203.

[7] Docket No. CI77–412, Opinion No. 90, 12 FERC ¶ 61,080 (1980).

[8] Order No. 94, Opinion No. 90 and *Trunkline Gas Co.* were remanded to the Commission in an unreported decision by the Fifth Circuit in *Texas Eastern Transmission Corp.* v. *FERC*, Docket No. 80–1928 (Aug. 17, 1981).

property, it does apply to licenses to private parties for activities involving wetlands on Federal property. Thus, reference to Executive Order No. 11,990 must be retained. Tennessee, moreover, misconceives the intent of the Wild and Scenic Rivers Act. While that act does contain an express prohibition against this Commission's issuing a license for a hydroelectric project on a river proposed for wild or scenic status, that express prohibition does not set limits on the Commission's other responsibilities with respect to areas within the purview of the Wild and Scenic Rivers Act. Moreover, by incorporating the provisions of those laws into the blanket certificate program, the Commission is merely adopting a further screening device to insure that the final rule does not constitute a major Federal action having a significant affect on the quality of the environment.

INGAA asserts that, since Congress amended the Safe Drinking Water Act (SDWA) in December 1980 to exclude natural gas storage operations, reference to the SDWA should be deleted from the list of environmental statutes in § 157.206(d)(2). The Commission agrees with INGAA's comment and amends § 157.206(d)(2) accordingly.

Section 157.206(d)(3)(i) provides that the certificate holder shall be deemed in compliance with § 157.206(d)(2)(vii) only if prior to constructing facilities or abandoning facilities by removal under the blanket certificate, the certificate holder follows the procedures in Appendix I. As explained in the final rule (*Mimeo* at 40–42), these procedures for compliance with the Endangered Species Act of 1973 require the certificate holder, acting as the Commission's non-Federal representative, to contact the U.S. Fish and Wildlife Service and the National Marine Fisheries Service in order to determine whether endangered species or their critical habitat may occur in the project area and if so, to determine whether the proposed project may affect such species or habitat. Section 157.206(d)(7) of the regulations designates the certificate holder as the Commission's non-Federal representative for this purpose.

Section 157.206(d)(3)(ii) provides that the certificate holder shall be deemed in compliance with § 157.206(d)(2)(iv) only if, prior to constructing or abandoning facilities by removal, the certificate holder follows the procedures in Appendix II. As fully explained in the final rule (Mimeo at 43–44), these procedures require the certificate holder to check the National Register of Historic Places (NRHP) and consult with the State Historic Preservation Office or its designated alternate to determine if properties listed or eligible for inclusion in the NRHP would be affected.

Section 157.206(d)(3)(iii) provides that the certificate holder shall be deemed in compliance with § 157.206(d)(2)(vi) only if, prior to the construction of a project, the appropriate state agency designated to administer the state's coastal zone management plan (Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*) waives its right of review or determines that the project complies with the state's coastal zone management plan.

Tennessee requests that the above described provisions of § 157.206(d) (3) and (7) be reconsidered. Tennessee generally contends that the National Historic Preservation Act, the Archeological and Historic Preservation Act, the Endangered Species Act and the Coastal Zone Management Act impose a statutory obligation upon the Commission, that cannot lawfully be delegated, to consult with other Federal and state agencies and to determine certificate holder compliance with these statutes. Tennessee believes that the final rule improperly delegates these responsibilities to the certificate holder.

The Commission has not delegated its responsibilities but rather has met them by establishing appropriate procedures in the blanket certificate program. As explained in the final rule, the National Historic Preservation Act and the Endangered Species Act mandate that the Commission assure that any activity it certificates complies with the provisions of the respective statutes and their implementing regulations. (*Mimeo* at 40 and 42.) Consistent with these mandates, the Commission's regulations provide specific findings in § 157.206(d)(3)(i) and (ii) that, where the certificate holder complies with the procedures specified in Appendices I and II, the statutorily protected species, critical habitat and properties would not be affected. Furthermore, the designation of the certificate holder as the Commission's non-Federal representative under § 157.206(d)(7) is similar to those provided for in the U.S. Fish and Wildlife Service procedures that implement the Endangered Species Act and is a necessary complement to the Commission's finding of no significant impact with respect to endangered species. Similarly, § 157.206(d)(3)(iii) concerning compliance with a state's coastal zone management plan, is consistent with the determination that the only activities authorized under the final rule are routine activities. These procedures constitute a threshold mechanism which permits self-implementation of a variety of activities, while involving the Commission and its staff in only those few cases which raise environmental concerns. No agency having primary jurisdiction over these statutes opposes the Commission's determination in the final rule that these procedures constitute an acceptable means of expediting Natural Gas Act certification while satisfying our statutory environmental responsibilities. (Final Rule; *Mimeo* at 41–43.)

G. Sensitive Environmental Area

Section 157.206(d)(4) provides that any transaction authorized under a blanket certificate shall not significantly impact or adversely affect a sensitive environmental area.

TETCO-Transwestern opposes this condition as unnecessary, unlawfully vague and in excess of statutory requirements. Tennessee also claims that the regulation is unlawfully vague because the Commission has failed to define "significantly impact" and "adversely affect." Finally, Tennessee objects that the definition of "sensitive environmental area" in § 157.202(b)(11) improperly places the burden of determining compliance with § 157.206(d)(4) on the certificate holder independently rather than with the assistance of the agency having primary jurisdiction.

As previously noted, the Commission believes that the environmental conditions contained in § 157.206(d) are necessary in order for the Commission to fulfill its statutory responsibilities under NEPA. In particular, § 157.206(d)(4) is a reasonable and necessary complement to the other environmental regulations, because the list of environmental laws in § 157.206(d)(2) is not an exclusive one. Section 157.206(d)(4) is designed to anticipate examples of serious adverse environmental effects not covered by the statutes enumerated in § 157.206(d)(2).

The Commission agrees with the applicants, however, that the terms "significantly impact" and "adversely affect" should be modified. Some activities may have an adverse but not significant effect on sensitive environmental areas; other activities may have a significant beneficial impact. In either case, the Commission does not intend § 157.206(d)(4) to exclude such activities from the blanket certificate program. Accordingly, § 157.206(d)(4) is amended to provide that transactions authorized under the

blanket certificate program shall not have a significant adverse impact on a sensitive environmental area.

Sections § 157.202(b)(11) and § 157.206(d)(4) do not require the certificate holder to make the determination of "sensitive environmental area" independently. Rather, any certificate holder which is in doubt as to whether a proposed activity will have a significant adverse impact on a sensitive environmental area may consult with the Commission Staff or any other relevant state or Federal agencies.

H. Noise Level for Compressor Stations

Section § 157.206(d)(5) provides that the noise attributable to any compressor facility installed pursuant to the blanket certificate shall not exceed a day/night sound level (L_{dn}) of 55 dB(A) at any noise-sensitive area unless the noise-sensitive area (such as schools, hospitals, or residences) is established after facility construction.

TETCO-Transwestern, Tennessee, Columbia Gulf, Transco and INGAA object to the compressor noise level prescribed by the condition. The applicants assert that the Commission violated NEPA by prescribing a noise standard without making a cost-benefit study. Columbia Gulf asserts that the cost of assuring the prescribed noise level would be prohibitive. These applicants also assert that the Commission violated NEPA and/or the Noise Control Act of 1972, by failing to consult with the Environmental Protection Agency before prescribing a noise standard and by establishing a Federal ambient noise standard notwithstanding Congressional rejection of Federal noise standards. The applicants argue that the noise standard is arbitrary and unreasonable, that an overall dB(A) rating is insufficient to determine annoyance because it is unrelated to the specific characteristics of a particular area, and that the noise level is significantly more stringent than levels proposed by any other Federal or state agencies. INGAA asserts that because compressor stations operate around the clock at a constant level for maximum efficiency, an L_{dn} of 55 dB(A), with its 10 dB(A) night offset, requires the compressor station to actually operate at a 24 hour L_{eq} of 48.6 dB(A), which is an unreasonable level. TETCO-Transwestern, Tennessee, and INGAA assert that the appropriate noise level, if any, is an L_{eq} of 55 dB(A) rather than an L_{dn} of 55 dB(A).

The Commission has reviewed the record in this proceeding and its experience over the years in certificating compressors and in serving as a forum for controversies surrounding compressor noise.[9] Based upon this experience, the Commission adopted in the final rule the L_{dn} of 55 dB(A) as a suitable dividing line between those compressor projects which can be authorized in advance and those which require closer scrutiny. (*Mimeo* at 52–54.) The allegations in many of the comments and the applications for rehearing that the Commission has violated NEPA and the Noise Control Act of 1972 are based on the incorrect assumption that the Commission has promulgated a noise standard. Contrary to the applicant's assertion, NEPA does not require a cost benefit study in this instance. The Commission has not promulgated a noise standard and, therefore, has not violated these statutes. It merely chose an L_{dn} of 55 dB(A) as a screening device between projects that should and should not be authorized under the blanket certificate. The $12 million limit in § 157.208 is another such screening device. If a project does not fall within the limit, it is not prohibited; it merely must be presented for case-specific review. As to the rehearing applicants' contention that an L_{dn} of 55 dB(A) is too low a dividing line, the Commission agrees with the environmental assessment (EA) which provides a substantive explanation for that level. Although Columbia Gulf argues that the cost of assuring the 55 dB(A) noise level would be prohibitive, it did not submit cost data to support its allegation. Moreover, neither the comments submitted in response to the Notice of Proposed Rulemaking and the EA nor the applications for rehearing submit any cost/benefit analysis or other data to demonstrate that another noise level is a more appropriate cut-off for authorization under the blanket certificate procedure.

I. Nuclear Power Plants

Section 157.206(d)(6) provides that any activity otherwise subject to authorization under § 157.208 shall not be authorized if the activity is located within 0.5 mile of a nuclear power plant which is either operating or under construction, or for which a construction permit has been filed with the Nuclear Regulatory Commission. Section 157.206(d)(6) further provides that any activity otherwise subject to authorization under § 157.215 shall not be authorized if the activity is located within 2.0 miles of a nuclear power plant which is either operating or under construction, or for which a construction permit has been filed with the Nuclear Regulatory Commission. This section was added at the request of the Nuclear Regulatory Commission to insure that activities in proximity to a nuclear power reactor are not undertaken without a careful case-specific review and analysis of the potential impacts.

INGAA asserts that this provision should be deleted because it was not included in the Notice of Proposed Rulemaking, and hence there was no opportunity for public comment. INGAA asserts also that the U.S. Department of Transportation's existing pipeline safety regulations provide adequate pipeline safety requirements. INGAA suggests that the regulation be deleted and the Natural Gas Pipeline Safety Act be added to the list of environmental laws enumerated in § 157.206(d)(2).

The Commission believes that this issue is clearly within the scope of the notice of the proposed rulemaking which included several environmental conditions for the blanket certificate program. Inclusion of the condition regarding nuclear facilities is responsive to a comment received in this proceeding and reflects reasonable deference to the expertise of another Federal agency. The safety factors involved herein are potentially of such magnitude that they outweigh the burdens a certificate holder would incur by applying for case-specific authorization in order to undertake activities within the restricted zones.

J. Filing Requirements Under § 157.208

Section 157.208(c)(3) requires that, for projects costing between $4.2 million and $12 million, the certificate holder must indicate the location of any sensitive environmental areas within one-quarter mile of construction activities. Section 157.208(c)(11) requires that the certificate holder concisely analyze the relevant issues outlined in Appendix B of Part 2 (guidelines for environmental reports submitted with applications under Section 7(c) of the Natural Gas Act).

Tennessee objects to the imposition of these conditions on the grounds that they are as stringent or more stringent than the requirements for Section 7(c) certificate applications, and therefore, are contrary to the Commission's intent in promulgating the blanket certificate program to ease regulatory and administrative burdens upon the interstate pipelines.

Because projects authorized under the notice and protest procedure are not as routine as projects automatically authorized under the blanket certificate,

[9] The Commission last addressed many of the same compressor noise arguments raised in these applications for rehearing in *Ozark Gas Transmission*, Opinion No. 125, 16 FERC ¶ 61,099 (1981).

they have greater potential to cause significant impacts on environmentally sensitive areas. Because the Commission has a limited time to review such projects under the blanket certificate program, sufficient objective data must be provided from the outset. Identification only of environmentally-sensitive areas traversed by the pipeline right-of-way would not permit adequate evaluation of the impact on adjoining areas, while identification of environmentally-sensitive areas only where the certificate holder has first determined that the area will be affected by the project could deprive the Commission of data that may be necessary for an accurate independent assessment. Tennessee's assertion that these requirements are more stringent than section 7(c) requirements is incorrect. In evaluating section 7(c) applications, the requested information is currently required for individual section 7(c) applications (*See*, 18 CFR 2.82 and Appendix B thereto). The Commission is under no time constraints in processing a case-specific application and can, therefore, require the applicant to augment the data originally filed through supplemental data requests so that an accurate assessment can be made.

K. Delivery Point Facilities

Section 157.212 provides for, among other things, the establishment of new delivery points for an existing customer. TETCO-Transwestern requests that the authorization for additional delivery points under § 157.212 specifically include authorization for the construction and operation of the facilities necessary to establish such delivery points. The Commission believes that such authorization is necessary in order to prevent the filing of unnecessary case-specific applications for ancillary activities that are authorized under this section of the blanket certificate regulations. Accordingly, the Commission is amending § 157.212 to include such express authorization.

L. Abandonment and Relocation of Field Compressors

Section 157.7(g) provides for the abandonment, construction, and relocation of field compressors under a budget-type certificate. TETCO-Transwestern states that this is an important aspect of routine pipeline operations and that the regulations should be clarified to permit such activity under the blanket certificate.

The blanket certificate program is meant to supersede the budget-type authorizations previously available under § 157.7 of the regulations. With regard to abandonment, relocation, and construction, §§ 157.208 and 157.216 are considerably broader than § 157.7(g). To the extent field compressors qualify as "gas supply facilities" defined in § 157.202(b)(4), their abandonment is authorized by § 157.216(a) on a self-implementing basis. Similarly, their construction, operation and relocation are authorized by § 157.208. In the few circumstances where field compressors do not qualify as "gas supply facilities" (if the gas compressed is not for system supply), such facilities would require case-by-case certification. The Commission believes that the limitations contained in § 157.208 better protect the public interest than the limitations of § 157.7(g).

M. Definition of Customers Currently Served

Section 157.216(b) of the final rule permits a certificate holder to use the notice and protest procedure to abandon gas service or facilities if, among other things, all of the customers currently served through the sales tap or lateral line consent in writing to the abandonment.

The regulations do not expressly define the term "customers currently served." General Motors urges that the term be defined to mean "all direct and indirect customers, including industrial users which are not purchasing gas at a particular point in time as a result of a temporary shutdown of operations." As to the notice required, General Motors recommends that the regulations be amended to require that both the certificate holder's request for authorization and the public notice of the proposed abandonment describe the nature of the abandonment, the reasons therefor, the identity of affected customers, and whether alternative arrangements have been made for serving the affected indirect customers.

The ambiguity surrounding the term "customers currently served" has been eliminated by amending § 157.216(d) to refer to "existing customers of the pipeline served through the sales tap or lateral line." With this amendment, companies which, due to temporary plant closings, changed operating schedules, or fuel switching had temporarily eliminated or reduced their purchase of natural gas under operative contracts, would be considered existing customers.

The term "existing customers", however, refers to direct customers (including distribution companies) only. To require certificated holders to provide all indirect customers actual notice of a proposed abandonment would be unduly burdensome. To ensure adequate protection of these indirect customers, however, the regulations are amended to require the certificate holder to provide actual notice of the proposed abandonment to any state public service commissions which have regulatory authority over retail sales to the indirect customers served through the facilities proposed to be abandoned. This notice requirement does not include requiring a certificate holder to obtain the written consent of any of the relevant public service commissions. In view of the availability of the protest procedure, the Commission believes the interests of indirect customers will be adequately served by affording public service commissions actual notice and the opportunity to protest, and by requiring the certificate holder to obtain the written consent of distribution company customers.

Finally, we find no need to amend the regulations to require expressly that certificate holders include in the draft notice the information requested by General Motors. The Commission expects that in describing the scope and purpose of a proposed abandonment pursuant to § 157.205(b)(5) of the regulations, the certificate holder will identify and describe the facilities or services to be abandoned, describe the group of end users affected, and indicate the reason and justification for the abandonment.

IV. Effective Date

Because of the importance of the blanket certificate program to the regulatory reform efforts of the Commision and the potential confusion which may result if the amendments contained herein do not become effective prior to the issuance of the individual blanket certificates under this rule, the Commission finds good cause, pursuant to 5 U.S.C. 553(d), to make these amendments to the final rule effective on the date of issuance of this order.

The Commission orders:

For the reasons set forth above, the Commission orders:

(1) The applications for rehearing are granted to the extent consistent with the preceding discussion.

(2) The portion of any application for rehearing dealing with § 157.206(b) and (c) continues to be granted for the purpose of further consideration.

(3) To the extent an application for rehearing is not specifically granted, it is denied.

(4) Part 157 of Chapter I Title 18 of the Code of Federal Regulations is amended as set forth below.

(Natural Gas Act, 15 U.S.C. 717–717; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 C.F.R. 142)

List of Subjects in 18 CFR Part 157

Natural gas, Pipeline certificates.

In consideration of the foregoing, Part 157 of Chapter I, Title 18 of the Code of Federal Regulations is amended as set forth below, effective August 31, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

1. Section 157.205(g) is amended to read as follows:

§ 157.205 Notice procedure.

* * * * *

(g) *Withdrawal of Protests.* The protestor may withdraw a protest within the 30 day period following the deadline determined in accordance with paragraph (d) of this section by submitting written notice of withdrawal to the Secretary of the Commission and serving a copy on the certificate holder, any intervenors and any other party requesting service. The withdrawal must state that the certificate holder, the protestor, and staff concur in the withdrawal.

2. Section 157.206(d) is amended by deleting subparagraph (d)(2)(iii) and renumbering all subsequent subparagraphs.

3. Section 157.206(d)(3) is amended by amending the references to paragraphs (d)(2)(iv), (d)(2)(vi), and (d)(2)(vii) to read (d)(2)(iii), (d)(2)(v), and (d)(2)(vi), respectively.

4. Section 157.206(d)(4) is amended to read as follows:

§ 157.206 Standard conditions.

* * * * *

(d) * * *

(4) Any transaction authorized under a blanket certificate shall not have a significant adverse impact on a sensitive environmental area.

* * * * *

5. Section 157.211(c) is amended to read as follows:

§ 157.211 Construction and operation of sales taps.

* * * * *

(c) *Contents of request.* In addition to the requirements of § 157.205(b), requests for activities described under paragraph (b) shall contain: * * *

(3) The quantity of gas to be sold through the proposed facility and its end-use;

(4) The rate or rate schedules applicable to the sale made through the proposed tap; and

(5) A description, with supporting data, of the impact of the service rendered through the proposed sales tap upon the certificate holder's peak day and annual deliveries.

* * * * *

6. Section 157.212 is amended in paragraphs (a) and (b) to read as follows:

§ 157.212 Changes in delivery points.

(a) *Prior notice.* Subject to the notice requirements of § 157.205, the certificate holder is authorized to add new delivery points for a customer or to reassign volumes of gas to be delivered from one of the customer's delivery points to another, and to construct and operate any appurtenant facilities, if:

* * * * *

(b) * * *

(2) The location of the delivery points;

(3) The present and proposed quantities of natural gas to be delivered at each of the affected delivery points and the end-use of the gas; and

(4) A description, with supporting data, of the impact of the proposed changes in delivery points on the certificate holder's peak day and annual deliveries.

* * * * *

7. Section 157.213(c) is amended to read as follows:

§ 157.213 Storage services.

* * * * *

(c) * * *

(4) The amount of storage capacity in the facility rendered under the contract, and the amount of uncommitted storage capacity remaining after executing the storage service agreement;

(5) Citation to the rate schedule applying to the storage service and a statement explaining the treatment of revenues under that rate schedule;

(6) The end-use of the gas involved in the transportation and storage services, to the extent it can be determined; and

(7) A description, with supporting data, of the impact of the proposed storage and incidental transportation service on the peak day and annual deliveries of the certificate holder and of the proposed recipient of the storage service if it is an interstate pipeline.

8. Section 157.216(b) is amended to read as follows:

§ 157.216 Abandonment.

* * * * *

(b) *Prior Notice.* Subject to the notice requirements of § 157.205, the certificate holder is authorized pursuant to section 7(b) of the Natural Gas Act to abandon any sales tap or lateral line and related facilities and service if all of the existing customers of the pipeline served through the sales tap or lateral line consent in writing to the abandonment. When filing a request for authorization of the proposed abandonment under the notice procedures of § 157.205, the certificate holder shall notify, in writing, the state public service commission having regulatory authority over retail sales to the indirect customers served through the sales tap or lateral line.

[FR Doc. 82-24391 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-116 (New Mexico—15); Order No. 251]

High-Cost Gas Produced From Tight Formations; New Mexico

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of New Mexico Energy and Minerals Department, Oil Conservation Division, that the Atoka-Morrow Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective August 31, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: August 31, 1982.

In the matter of High-Cost Gas Produced from Tight Formations; Docket

No. RM79–76–116, (New Mexico—15); order no. 251.

The Commission hereby amends § 271.703(d) of its regulations to include the Atoka-Morrow Formation in Chaves County, New Mexico, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued May 21, 1982 (47 FR 23187, May 27, 1982),[1] based on a recommendation by the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) in accordance with § 271.703, that the Atoka-Morrow Formation be designated as a tight formation.

Evidence submitted by New Mexico supports the assertion that the Atoka-Morrow Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the New Mexico recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations,* is amended as set forth below, effective August 31, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703 is amended by adding a new paragraph (d)(99) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(99) *Atoka-Morrow Formation in New Mexico.* RM79–76–116 (New Mexico—15). (i) *Delineation of formation.* The Atoka-Morrow Formation is located in Chaves County, New Mexico, approximately 23 miles northeast of Roswell, New Mexico. The Atoka-Morrow Formation is found in Township 7 South, Range 28 East, Sections 22 through 27, and 34 through 36; Township 7 South, Range 29 East, Sections 19 through 36; Township 7 South, Range 30 East, Sections 19 through 36; township 7 South, Range 31 East, Sections 19, 20, 21, and 28 through 33; Township 8 South, Range 28 East, Sections 1, 2, 3, 10 through 15, 22 through 27, and 34, 35, 36; Township 8 South, Range 29 East, Sections 1 through 36; Township 8 South, Range 30 East, Sections 1 through 36; Township 8 South, Range 31 East, Sections 4 through 9, 16 through 21, and 28 through 33; Township 9 South, Range 28 East, Sections 1, 2, 3, and 10 through 15; Township 9 South, Range 29 East, Sections 1 through 18; Township 9 South, Range 30 East, Sections 1 through 18; Township 9 South, Range 31 East, Sections 4 through 9, and 16, 17, and 18.

(ii) *Depth.* The Atoka-Morrow Formation varies in thickness from 91 feet to 895 feet. The average depth to the top of the Atoka-Morrow Formation is 8,100 feet.

[FR Doc. 82–24357 Filed 9–2–82; 8:45 am]

BILLING CODE 6717–01–M

[1] Comments were invited on the proposed rule and two comments supporting the recommendation were received. No party requested a hearing and no hearing was held.

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18 CFR Part 271

[Docket No. RM79–76–123 (Colorado–26); Order No. 253]

High-Cost Gas Produced From Tight Formations; Colorado

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Colorado Oil and Gas Conservation Commission that the Dakota-Lakota Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective August 31, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: August 31, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Dakota-Lakota Formation in Boulder County, Colorado, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued June 11, 1982 (47 FR 26163, June 17, 1982),[1] based on a recommendation by the Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703, that the Dakota-Lakota Formation be designated as a tight formation.

Evidence submitted by Colorado supports the assertion that the Dakota-Lakota Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Colorado recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below, effective August 31, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding a new subparagraph (108) to read as follows:

[1] Comments were invited on the proposed rule and one favorable comment was received. No party requested a hearing and no hearing was held.

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(108) *Dakota-Lakota Formation in Colorado.* RM79–76–123 (Colorado—26).

(i) *Delineation of formation.* The Dakota-Lakota Formation is located in Boulder County, Colorado, in Township 1 North, Range 69 West, 6th P.M., Sections 25 through 36; Township 1 South, Range 69 West, 6th P.M., Sections 3 through 10, 15 through 22, 27 through 34; and Township 2 South, Range 70 West, 6th P.M., Sections 1, 2, 3, 10 through 15, 22 through 27, and 34, 35 and 36.

(ii) *Depth.* The producing interval of the Dakota-Lakota Formation is approximately 175 to 185 feet thick, and begins at the base of the Skull Creek Formation and extends to the top of the Morrison Formation. The average depth to the top of the Dakota-Lakota Formation is 9,100 feet.

[FR Doc. 82–24358 Filed 9–2–82; 8:45 am]
BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–061 (Colorado–21); Order No. 254]

High-Cost Gas Produced From Tight Formations; Colorado

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Colorado Oil and Gas Conservation Commission that the Wasatch Formation be designated as a tight formation under § 271.703.

EFFECTIVE DATE: This rule is effective August 31, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

August 31, 1982.

In the matter of High-Cost Gas Produced from Tight Formations; Docket No. RM79–76–061, (Colorado—21); order No. 254.

The Commission hereby amends § 271.703(d) of its regulations to include the Wasatch Formation in Garfield County, Colorado, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation on October 9, 1982 [46 FR 52127, October 26, 1981), [1] based on a recommendation by the Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703(c)(2)(ii) that the Wasatch Formation be designated as a tight formation.

Colorado filed the recommendation under the alternative procedure specified in § 271.703(c)(2)(ii). This alternative procedure applies to formations which meet the stabilized production rate guideline (§ 271.703(c)(2)(i)(C)), and the crude oil production guideline (§ 271.703(c)(2)(i)(B)), but do not meet the permeability standard set forth in § 271.703(c)(2)(i)(A). As in this instance, the formation may be approved as a tight formation if the jurisdictional agency makes an adequate showing that the recommended formation exhibits low permeability characteristics and that the incentive price set in § 271.703(a) is necessary to provide reasonable incentives for production of natural gas from the formation due to the extraordinary costs associated with such production.

To support its recommendation under § 271.703(c)(2)(ii), the jurisdictional agency's recommendation must contain, in accordance with § 271.703(c)(3)(v), the types and extent of enhanced production techniques which are expected to be necessary, the estimated expenditures for such techniques, the degree of increase in production to be expected from the use of these techniques, and engineering and geological data supporting the estimate. Colorado's submission contains an analysis of data from 26 wells which penetrated the Wasatch Formation. The Commission's analysis of this data under § 271.703(c)(2)(ii) will be discussed.

[1] Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

Discussion

1. *Low Permeability Characteristics.* Under the alternative procedure for designating tight formations, the jurisdictional agency must demonstrate that the formation exhibits low permeability characteristics. The Wasatch Formation as recommended by Colorado is defined as that rock from the surface down to the top of the Mesaverde Formation. The formation is described as being composed of shales and sandstones which are slightly calcerous and clay filled, having no visual porosity, and therefore, are likely to inhibit the natural flow of gas. The lithology is typical of a low permeability reservoir.

Reservoir engineering studies were conducted in the recommended formation to demonstrate the low permeability characteristics of the formation. Pressure transient (pressure build up) tests were conducted for eight wells completed in the formation and these tests showed an average permeability of .38 millidarcies in the recommended area. The Commission finds that the recommended formation exhibits low permeability characteristics.

2. *Economic Analysis.* The economic analysis contained in Colorado's recommendation was based on rate of return analyses and reservoir engineering data for five wells completed in the Wasatch Formation. The economic analysis used the standard steady state gas flow equation for volumetric reservoirs to estimate the amount of gas recoverable in each well and to determine an average reservoir abandonment pressure. Utilizing these data, production decline curves, projections of operating costs and projections of NGPA sections 102, 103 and 107(c)(5) ceiling prices, the rates of return for the five wells and two hypothetical leases were calculated.[2]

Calculation of the rate of return for each of the five wells before taxes under section 102 and section 103 pricing showed a negative rate of return. It was also found that two out of the five wells would never pay out at the section 102 or 103 price, and that one of the five wells would never pay out at the tight

[2] The rate of return studies escalated the ceiling prices for the first ten years of production beginning September 1980 by a monthly inflation factor of 11.4%. After ten years, the prices were held constant. Operating costs were also inflated by the 11.4% inflation factor for the first five years, after which they were held constant. The average initial cost of these wells including enhanced recovery was $333,361, compared with the current estimated cost of $328,400. To arrive at a before tax rate of return, four studies were prepared, discounting net cash flow at 10%, 15%, 20% and 25%.

formation price of 200% of the section 103 price.

Colorado submitted information which demonstrated that massive hydraulic fracturing was required in order to get measurable production from the five wells in the recommended formation. The average cost to perform such treatment on a well drilled in this formation was estimated to be $45,000.

Based upon the economic studies and data provided in Colorado's submission,[3] as discussed above, the Commission finds that the tight formation incentive price is necessary to provide a reasonable incentive to encourage further gas exploration and development in the Wasatch Formation.

3. *Infill drilling and exclusion of certain areas.* On March 21, 1961, in Cause No. 139, Order No. 139–2, Colorado established 640-acre spacing units for wells completed in the Wasatch Formation on lands underlying most sections within the recommended area. Colorado Order No. 139–7, issued October 6, 1978, released these sections to state-wide spacing of 40 acres per well. Colorado Order No. 139–8, issued July 16, 1979, changed the well spacing in the Wasatch Formation to 160 acres. The commission reviewed the drilling history of the wells completed in the recommended area, to determine if it complies with § 271.703(c)(2)(i)(D) of the regulations. Section 271.703(c)(2)(i)(D) provides that if the formation or portion thereof was authorized to be developed by infill drilling prior to the date of recommendation, the portion subject to infill drilling should not be included in the recommendation if there is information which indicates that that portion of the formation could be developed without the incentive price. Infill drilling is defined in § 271.703(b)(6) as:

> any drilling in a substantially developed formation * * * subject to requirements respecting well-spacing or proration units which were amended by the jurisdictional agency after the formation * * * was substantially developed and which were adopted for the purpose of more effective and efficient drainage of the reservoir in such formation.

There had not been substantial development of the recommended formation at the time the well spacing changes were made. Moreover, the Commission finds that there is no information which indicates that any part of this formation could be developed absent the incentive price. Therefore, the Commission will not exclude any areas in Colorado's recommendation for tight formation designation under § 271.703(c)(2)(i)(D).

Colorado's recommendation included certain lands that are within Naval Oil Shale leaseholds that are administered by the Department of Energy (DOE). DOE is the jurisdictional agency for these lands, and so DOE would be required at least to concur in Colorado's recommendation that a formation in this area be designated as a tight formation. DOE has stated that it has not issued oil and gas leases in this area and that it has no plans to issue any oil and gas leases under the oil shale leaseholds and that it therefore does not concur in the recommendation. Accordingly, and with Colorado's concurrence, the lands contained in Colorado's recommendation that are on the Naval Oil Shale leaseholds are not included in the tight formation designation herein.

The Commission finds that the evidence submitted supports the assertion that the Wasatch Formation meets the guidelines contained in § 271.703(c)(2)(ii). The Commission therefore adopts the Colorado recommendation, with the modification discussed above.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations,* is amended as set forth below, effective August 31, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703 is amended by adding a new paragraph (d)(105) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(105) *Wasatch Formation in Colorado.* RM79–76–061 (Colorado–21). (i) *Delineation of formation.* The Wasatch Formation is found in Garfield County, Colorado, in Township 6 South, Range 93 West, 6th P.M., Sections 3 through 10, 15 through 22, and 27 through 34, and Township 6 South, Range 94 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36. Excluded from this designation are the Naval Oil Shale leaseholds found in portions of Township 6 South, Range 94 West, Sections 2, 3 and 10.

(ii) *Depth.* The Wasatch Formation extends from the surface of the ground to the top of the Williams Fork and Iles members of the Mesaverde Formation. The average depth to the top of the producing interval of the Wasatch Formation is 1,767 feet.

[FR Doc. 82–24359 Filed 9–2–82; 8:45 am]

BILLING CODE 6717–01–M

[3] Supplemental data was supplied in a letter from Colorado received by the Commission on May 7, 1982.

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18 CFR Part 271

[Docket No. RM79–76–117 (New Mexico–16); Order No. 252]

High-Cost Gas Produced From Tight Formations; New Mexico

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of New Mexico Energy and Minerals Department, Oil Conservation Division, that the Chacra Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective August 31, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511 or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: August 31, 1982.

In the matter of High-Cost Gas Produced From Tight Formations;

Docket No. RM79–76–117, (New Mexico—16); order No. 252.

The Commission hereby amends § 271.703(d) of its regulations to include the Chacra Formation in Rio Arriba County, New Mexico, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued May 27, 1982 (47 FR 24141, June 3, 1982),[1] based on a recommendation by the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) in accordance with § 271.703, that the Chacra Formation be designated as a tight formation.

Evidence submitted by New Mexico supports the assertion that the Chacra Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the New Mexico recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below, effective August 31, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703 is amended by adding new paragraph (d)(107) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(107) *Chacra Formation in New Mexico.* RM79–76–117 (New Mexico–16). (i) *Delineation of formation.* The Chacra Formation is located in all of Sections 16, 21, 22, 25 through 28, 34 through 36, and the S/2 of Section 23, Township 25 North, Range 6 West, NMPM, in Rio Arriba County, New Mexico.

(ii) *Depth.* The Chacra Formation averages approximately 130 feet in thickness. The average depth to the top of the Chacra Formation is 3,390 feet.

[FR Doc. 82–24386 Filed 9–2–82; 8:45 am]

BILLING CODE 6717–01–M

[1] Comments were invited on the proposed rule and none were received. No party requested a hearing and no hearing was held.

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18 CFR Part 271

[Docket No. RM79–76–092 (West Virginia–1; Addition); Order No. 250]

High-Cost Gas Produced From Tight Formations; West Virginia

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the West Virginia Department of Mines, Division of Oil and Gas, that the "Princeton" and "Ravencliff" zones of the Mauch Chunk Group and the "Injun," "Weir" and "Berea" zones of the Pocono Group be designated as tight formations under § 271.703(d).

EFFECTIVE DATE: This rule is effective August 31, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or John Roy Johnson, (202) 357–8731.

SUPPLEMENTARY INFORMATION:

Issued: August 31, 1982.

In the matter of High-Cost Gas Produced from Tight Formations; Docket No. RM79–76–092 (West Virginia—1 Addition); order No. 250.

The Commission hereby amends § 271.703(d) of its regulations to include the "Princeton" and "Ravencliff" zones of the Mauch Chunk Group and the "Injun," "Weir" and "Berea" zones of the Pocono Group, located in portions of Mercer, McDowell and Wyoming Counties, West Virginia, as designated tight formations eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued February 9, 1982 (47 FR 6438, February 12, 1982),[1] based on a recommendation by the State of West Virginia Department of Mines, Oil and Gas Division (West Virginia) in accordance with § 271.703(c) that the "Princeton" and "Ravencliff" zones of the Mauch Chunk Group and the "Injun," "Weir" and "Berea" zones of the Pocono Group be designated as tight formations.

West Virginia asserted in its recommendation that the "Princeton" zone was grouped with the "Ravencliff" because of similarity in depositional environments, even though the "Princeton" occurs from 10 to 100 feet above the "Ravencliff." Evidence in the submittal stated that in some places these two sandstones grade into each other. Supplemental geological information received by the Commission in this docket from West Virginia reveals that the two zones are separated by 100 to 350 feet of strata in the recommended area. Since these two zones are separate and distinct, the Commission finds that they should be treated separately with respect to their designation as tight formations. The rule has been revised from the proposed rule as noticed on February 9, 1982, to reflect this change.

Evidence submitted by West Virginia supports the assertion that these formations meet the guidelines contained in § 271.703(c)(2). The Commission hereby adopts the West Virginia recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

[1] Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, is amended as set forth below, effective August 31, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703 is amended by adding new paragraphs (d) (100) through (104) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(100) *"Princeton" Zone of the Mauch Chunk Group in West Virginia.* RM79–76–092 (West Virginia—1)

(i) *Delineation of formation.* The "Princeton" zone of the Mauch Chunk Group underlies portions of Mercer, McDowell and Wyoming Counties, West Virginia. The "Princeton" zone is also called "Salt Sands" or "Maxton" by drillers.

(ii) *Depth.* The "Princeton" zone ranges in thickness from 0 to 100 feet, and is found at a depth of approximately 1,400 to 1,500 feet in north-central Wyoming County. It is bounded above by the Pottsville Group of Pennsylvanian age (referred to as "Salt Sands" or "Rosedale Gas Sands" by drillers) or by the Bluestone Formation of Mississippian age (also called "Salt Sands" by drillers).

(101) *"Ravencliff" zone of the Mauch Chunk Group in West Virginia.* Docket No. Rm79–76–092 (West Virginia—1 Addition).

(i) *Delineation of formation.* The "Ravencliff" zone of the Mauch Chunk Group, also called "Salt Sands" or "Maxton" by drillers, is found in portions of Mercer, McDowell and Wyoming Counties, West Virginia.

(ii) *Depth.* The "Ravencliff" zone ranges in thickness from stringers in the western portion of the designated area, to 150 feet in the central and southwestern portion of the area. It is found at depths varying from 1,100 to 2,100 feet.

(102) *"Injun" Zone of the Pocono Group in West Virginia.* Docket No. RM79–76–092 (West Virginia—1 Addition).

(i) *Delineation of formation.* The "Injun" zone of the Pocono Group, also called "Big Injun", underlies portions of Mercer, McDowell and Wyoming Counties, West Virginia.

(ii) *Depth.* The "Injun" zone varies in thickness from 50 feet in Wyoming County to stringers in the southern and eastern portions of the designated area. The depth to the top of the "Injun" zone ranges from approximately 3,100 feet to 4,300 feet.

(103) *"Weir" Zone of the Pocono Group in West Virginia.* RM79–76–092 (West Virginia—1 Addition).

(i) *Delineation of formation.* The "Weir" zone of the Pocono Group underlies portions of Mercer, McDowell and Wyoming Counties, West Virginia.

(ii) *Depth.* The "Weir" zone ranges in thickness from stringers in the eastern and western portion of the designated area, to 70 feet in the central part of the area. The "Weir" zone is found at depths varying from 3,250 feet to 4,550 feet.

(104) *"Berea" zone of the Pocono Group in West Virginia.* RM79–76–092 (West Virginia—1 Addition).

(i) *Delineation of formation.* The "Berea" zone of the Pocono Group underlies portions of Mercer, McDowell and Wyoming Counties, West Virginia.

(ii) *Depth.* The "Berea" zone has a maximum thickness of 45 feet in the central portion of McDowell and Wyoming Counties, and varies to shaley sandstone stringers in the eastern portion of the designated area. The "Berea" zone is found at depths ranging form 3,600 feet to 4,950 feet.

[FR Doc. 82-24385 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 274

[Docket No. RM82-41-000; Order No. 256]

Identification of Jurisdictional Agencies

Issued: August 31, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) amends § 274.501(a)(2) of its regulations to add the Missouri Department of Natural Resources to the list of jurisdictional agencies that have notified the Commission of their authority to make well category determinations required by sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978.

EFFECTIVE DATE: August 31, 1982.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

Issued: August 31, 1982.

Under section 503(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432, a federal or state agency that has regulatory jurisdiction over the production of natural gas (jurisdictional agency) is authorized to make well category determinations required under sections 102, 103, 107 and 108 of the NGPA. Section 274.501(a)(2) of the Commission's regulations lists the federal and state agencies that have notified the Commission of their jurisdiction.

On January 26, 1982, the Missouri Department of Natural Resources (Missouri) notified the Commission of its authority to process applications for well category determinations under the NGPA on lands other than federal lands in the State. Missouri also filed a report pursuant to § 274.105 describing the method by which it will process such determinations. The Commission issued notice of receipt of Missouri's report on March 3, 1982, in Docket No. RM79–3 (47 FR 9516, March 5, 1982).

This final rule amends § 274.501(a)(2) to add the Missouri Department of Natural Resources to the list of jurisdictional agencies that have notified the Commission of their authority.

The Commission finds that prior notice and public procedure under section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553) are unnecessary because the amendment simply notifies the public of the identity and location of a jurisdictional agency which has already been established. For the same reason, the Commission finds good cause to make the rule effective immediately, pursuant to section 553(d) of the APA.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

List of Subjects in 18 CFR Part 274

Natural gas, Pricing.

In consideration of the foregoing, § 274.501 of Subchapter H, Subpart E, chapter I of Title 18, Code of Federal Regulations, is amended as set forth below, effective August 31, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES

Section 274.501(a)(2) is amended by adding a jurisdictional agency for wells located in Missouri on Other Lands to read as follows:

§ 274.501 Jurisdictional agency.

(a) * * *

(2) * * *

State in which well is located	Jurisdictional agency for wells on	
	Federal lands	Other lands
*	*	*
Missouri	DCM-Oil and Gas Conservation Div., USGS Box 25046, DFC, MS 609, Denver, CO 80225.	Missouri Department of Natural Resources, P.O. Box 250, Rolla, Missouri 65401.
*	*	*

[FR Doc. 82-24390 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

Advisory Committees; Establishment and Termination

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and the public advisory committee procedures (21 CFR Part 14), the Food and Drug Administration (FDA) is announcing the establishment of the Obstetrics-Gynecology Devices Panel and the Radiologic Devices Panel and the termination of the Obstetrics-Gynecology and Radiologic Devices Panel. These actions will improve the efficiency of FDA's advisory committees' review of devices in these therapeutic categories, consistent with the objectives of a working relationships agreement between the Bureaus of Medical Devices, Radiological Health, and Biologics. This agreement was approved by the Commissioner of Food and Drugs on February 2, 1982, and its availability was announced in the **Federal Register** of April 9, 1982 (47 FR 15412).

EFFECTIVE DATE: September 3, 1982; authority for these committees will remain in effect until amended or terminated by the Commissioner of Food and Drugs.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and § 14.40(b) (21 CFR 14.40(b)), FDA is announcing the establishment of the Obstetrics-Gynecology Devices Panel and the Radiologic Devices Panel by the Commissioner of Food and Drugs.

The committees will review and evaluate data concerning the safety and effectiveness of devices currently in use and advise the Commissioner regarding recommended classification of these devices into one of three regulatory categories; recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advise on any possible risks to health associated with the use of devices; advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; review classification of devices to recommend changes in classification as appropriate; recommend exemption of portions of the Federal Food, Drug, and Cosmetic Act; advise on the necessity to ban a device; and respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Concurrent with the establishment of these advisory committees, the Commissioner of Food and Drugs approved the termination of the Obstetrics-Gynecology and Radiologic Devices Panel. Under § 14.55(b) (21 CFR 14.55(b)), FDA announces the termination of this committee.

List of Subjects in 21 CFR Part 14

Administrative practice and procedure; Advisory committees; Color additives; Drugs; Radiation protection.

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 14 is amended in § 14.100 by revising paragraph (d)(1)(v) and adding new paragraph (e)(3) to read as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(d) * * *

(1) * * *

(v) *Obstetrics-Gynecology Devices Panel.* Established August 5, 1982.

* * * * *

(e) * * *

(3) *Radiologic Devices Panel.* (i) Established August 5, 1982.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of radiologic devices currently in use and makes recommendations for their regulation.

Effective date. Because this is a technical conforming amendment to Part 14, the Commissioner of Food and Drugs finds that there is good cause for the rule to be effective immediately upon publication in the **Federal Register**, September 3, 1982.

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

Dated: August 30, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-24408 Filed 9-2-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 74, 81 and 82

[Docket No. 76N-0366]

Provisional Listing of D&C Green No. 5; Postponement of Closing Date and Stay of Effectiveness

AGENCY: Food and Drug Administration.

ACTION: Final rule; stay of effective date.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Green No. 5 for use as a color additive in drugs and cosmetics. A new closing date for D&C Green No. 5 is set to give the agency time to complete evaluation of objections received in response to the final regulation approving the petition for the permanent listing of D&C Green No. 5. The regulation that permanently lists D&C Green No. 5 and removes D&C Green No. 5 from the provisional list is stayed until the agency takes final action on the objections.

DATES: Effective September 2, 1982; the new closing date of D&C Green No. 5 will be November 1, 1982.

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

SUPPLEMENTARY INFORMATION: The current closing date of September 2, 1982, for the provisional listing of D&C Green No. 5 was established by a regulation published in the **Federal Register** of June 4, 1982 (47 FR 24285). The September 2, 1982 closing date for D&C Green No. 5 was established to provide for receipt and evaluation of any objections to the final regulation approving the petition for permanent listing of D&C Green No. 5.

After the review and evaluation of the data relevant to the color additive petition to list D&C Green No. 5 for use in drugs and cosmetics, the agency concluded that D&C Green No. 5 was safe for those uses. Therefore, FDA issued a regulation in the **Federal Register** of June 4, 1982 (47 FR 24278) that would permanently list D&C Green No. 5. FDA stated that the regulation would become effective on July 7, 1982, unless stayed by the filing of proper objections.

FDA has received two objections to the listing regulation. Because of the objections, under section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 371(e)(2), the regulation (47 FR 24278) that permanently lists D&C Green No. 5 and that removes D&C Green No. 5 from the color additive provisional list is stayed until the agency can rule upon the objections. FDA expects that the agency will need only a brief time to complete the evaluation of the objections and publish in the **Federal Register** a final decision concerning them. Therefore, FDA concludes that a brief postponement is necessary. The regulation set forth below will postpone the September 2, 1982 closing date for the provisional listing of D&C Green No. 5 until November 1, 1982.

Because the current closing date expires on September 2, 1982, FDA has concluded that the use of a notice and public procedure on this regulation are impracticable. Moreover, good cause exists for issuing this postponement as a final rule, and this action is consistent with the protection of the public health because the agency has previously concluded that D&C Green No. 5 is safe for its intended use under the Color Additive Amendments of 1960. This regulation will permit the uninterrupted use of this color additive until November 1, 1982. To prevent any interruption in the provisional listing of D&C Green No. 5, and in accordance with 5 U.S.C. 553(d) (1) and (3), this regulation is being made effective on September 2, 1982.

List of Subjects in 21 CFR Parts 74, 81, and 82

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701(e), 706 (b), (c), and (d), 70 Stat. 919 as amended, 74 Stat. 399–403 (21 U.S.C. 371(e), 376 (b), (c), and (d))) and the Transitional Provisions of the Color Additives Amendments (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Chapter I of Title 21 of the Code of Federal Regulations (as amended in the **Federal Register** of June 4, 1982 (44 FR 24278)) is amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. Part 74 is amended:

§ 74.1205 [Stayed]

a. By staying § 74.1205 *D&C Green No. 5.*

§ 74.2205 [Stayed]

b. By staying § 74.2205 *D&C Green No. 5.*

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

2. Part 81 is amended as follows:

§ 81.1 [Amended]

a. In § 81.1 *Provisional lists of color additives,* the amendment in paragraph (b) to remove the entry "D&C Green No. 5" is stayed, and its closing date is revised to read "November 1, 1982."

§ 81.27 [Amended]

b. In § 81.27 *Conditions of provisional listing,* the amendment in paragraph (d) to remove the entry for "D&C Green No. 5" is stayed, and the closing date for the entry is revised to read "November 1, 1982."

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

§ 82.1205 [Stayed]

3. Part 82 is amended by staying § 82.1205 *D&C Green No. 5.*

Effective date. This regulation is effective September 2, 1982.

(Secs. 701(e), 706 (b), (c), and (d), 70 Stat. 919 as amended, 74 Stat. 399–403 (21 U.S.C. 371(e), 376 (b), (c), and (d))); (sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: August 20, 1982.

Joseph P. Hile,

Associate Commissioner, Regulatory Affairs.

[FR Doc. 82-24073 Filed 8-30-82; 11:21 am]

BILLING CODE 4160-01-M

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21 CFR Part 177

[Docket No. 81F-0293]

Indirect Food Additives; Polyethersulfone Resins

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations by (1) revising the maximum use temperature limitation for polyethersulfone resins to 120° C (250° F) and (2) by removing the reference to the starting materials for polyethersulfone resins from the existing regulation. These revisions are consistent with the safe use of polyethersulfone resins as articles or components of articles intended for repeated use in contact with food. This action is in response to a petition filed by ICI Americas, Inc.

DATES: Effective September 3, 1982; objections by October 4, 1982.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 23, 1981 (46 FR 52033), FDA announced that a petition (FAP 1B3582) had been filed by ICI Americas, Inc., Wilmington, DE 19897, proposing to amend § 177.2440 *Polyethersulfone resins* (21 CFR 177.2440) to provide for the safe use of polyethersulfone resins produced by the reaction of dichlorodiphenylsulfone, dihydroxydiphenylsulfone, and potassium carbonate as articles or components of articles intended for repeated use in contact with food.

Having evaluated the data in the petition and other relevant material, FDA finds that the petitioner has shown that the proposed polyethersulfone resins are essentially identical to the polyethersulfone resins currently approved under § 177.2440, even though they are derived from different starting materials. Therefore, FDA concludes that the polyethersulfone resins can be adequately identified by specifying only the chemical name, Chemical Abstracts Service (CAS) Registry number, and the minimum number average molecular weight, and that it is not necessary to list starting materials as cited in the current regulation. Consequently, the reference in the current § 177.2440 to the starting materials used to produce polyethersulfone resins is removed. Additionally, FDA finds that the petitioner has shown that a maximum use temperature of 121° C (250° F) is consistent with the safe use of these resins. FDA further concludes that the

amended regulation should specify a maximum use temperature limitation of 121° C (250° F) for the resins.

FDA has evaluated data in the petition and other relevant material and concludes that these revisions of § 177.2440 are consistent with the safe use of polyethersulfone resins as articles or components of articles intended for repeated use in contact with food and that the regulations should be amended as set forth below.

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

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 supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives; Polymeric food packaging.

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended 21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 177 is amended in § 177.2440 by revising the introductory paragraph and paragraph (a) to read as follows:

§ 177.2440 Polyethersulfone resins.

Polyethersulfone resins identified in paragraph (a) of this section may be safely used as articles or components of articles intended for repeated use in contact with food, at use temperatures not exceeding 121° C (250° F), in accordance with the following prescribed conditions:

(a) For the purpose of this section, polyethersulfone resins are poly (oxy-*p*-phenylenesulfonyl-*p*-phenylene) resins (CAS Reg. No. 25667-42-9), which have a minimum number average molecular weight of 16,000, as determined by reduced viscosity in dimethyl formamide in accordance with ASTM Method D2857–70, "Standard Method of Test for Dilute Solution Viscosity of Polymers", which is incorporated by reference. Copies are available from University Microfilm International, 300 N. Zeeb Rd., Ann Arbor, MI 48106, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

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

Effective date. This regulation shall become effective September 3, 1982.

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

Note.—Incorporation by reference was approved by the Director of the Office of the Federal Register on March 31, 1982, and is on file at the Office of the Federal Register.

Dated: August 30, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–24409 Filed 9–2–82; 8:45 am]

BILLING CODE 4160–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Handling of Employment Discrimination Charges

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges, within their jurisdictions, filed with the Commission. Publication of this amendment effectuates the designation of Kansas City (KS) Human Relations Department as a 706 Agency.

EFFECTIVE DATE: September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Franklin F. Chow, Equal Employment Opportunity Commission, Office of Field Services, State and Local Division, 2401 E St., NW., Washington, D.C., telephone 202/634–6905.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—PROCEDURAL REGULATIONS

In Title 29, Chapter XIV of the Code of Federal Regulations, § 1601.74(a) is amended by adding in alphabetical order the following agency:

§ 1601.74 Designated and notice agencies.

(a) * * *

Kansas City (KS) Human Relations Department.

* * * * *

(Sec. 713(a) 78 Stat. 265 (42 U.S.C. 2000e 12(a))

Signed at Washington, D.C. this 31st day of August, 1982.

For the Commission.

John E. Rayburn, Jr.,

Director, State and Local Division.

[FR Doc. 82–24370 Filed 9–2–82; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Abandoned Mine Reclamation Plan for the State of Ohio Under Title IV of the Surface Mining Control and Reclamation Act of 1977; Correction

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

ACTION: Correction to final rule.

SUMMARY: On August 10, 1982, the Office of Surface Mining published the announcement that the Assistant Secretary for Energy and Minerals of the Department of the Interior had approved the Ohio Abandoned Mine Land Reclamation Plan (47 FR 34718). In that announcement the effective date of the approval of the plan was inadvertently published as August 10, 1982. This announcement corrects that date to read: "the approval is effective August 16, 1982."

Under the Surface Mining Control and Reclamation Act of 1977, a State cannot administer a Title IV program until a Title V program is in effect in the State. The effective date of approval of the Title V for Ohio was August 16, 1982. Therefore, the effective date of the Title IV program in Ohio must be August 16, 1982, at the earliest.

FOR FURTHER INFORMATION CONTACT: Don Willen, Chief, Division of Abandoned Mine Lands, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Ave. NW, Washington, DC 20240. (202) 343-7951.

List of Subjects in 30 CFR Part 935

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

Dated: August 27, 1982.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspections.

[FR Doc. 82-24381 Filed 9-2-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD, FRL-2190-1]

Approval and Promulgation of State Implementation Plans; Incorporation by Reference Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In 1972, EPA received permission from the Office of the Federal Register (OFR) to incorporate by reference into the Code of Federal Regulations (CFR) the State plans approved by EPA under Section 110 of the Clean Air Act. EPA has published a rule announcing these incorporations in 40 CFR 52.02(d). However, this rule does not meet OFR's requirements. EPA is revising its rule to comply with these requirements.

EFFECTIVE DATE: September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Willis Beal, Control Programs Development Division (MD-15), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-5665, FTS 629-5665.

SUPPLEMENTARY INFORMATION: Under 5 U.S.C. 552(a) and 1 CFR Part 51, the Director of OFR approved the incorporation by reference of the State Implementation Plans (SIP's) approved by EPA under Section 110 of the Clean Air Act. (See 37 FR 10846, May 31, 1972.) The Director renewed these approvals effective October 1, 1981. (See 46 FR 47938, September 30, 1980.)

EPA has published a rule announcing approval of this incorporation in 40 CFR 52.02(d) as required by OFR regulations. (See 1 CFR 51.7 and 51.8.) However, this rule does not comply with current OFR requirements. EPA is today revising 40 CFR 52.02(d) to conform with these requirements.

EPA finds it has good cause to take this action without providing notice and opportunity to comment. These revisions are only technical in nature. They do not add, alter, or revoke any regulatory requirements. EPA finds that public comment would be impracticable and unnecessary. EPA is making these revisions immediately effective for the same reasons.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not "major" because it imposes no requirements and will cause no increase in costs.

Pursuant to the provisions of 5 U.S.C. 5605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This action imposes no requirements on any small entity.

(Sec. 301 of the Clean Air Act, as amended)

List of Subjects in 40 CFR Part 52

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

Dated: August 24, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

40 CFR 52.02(d) is revised to read as follows:

§ 52.02 [Amended]

* * * * *

(d) All approved plans and plan revisions listed in Subparts B-DDD of this part and on file at the Office of the Federal Register are approved for incorporation by reference by the Director of the Federal Register. Notice of amendments to the plans will be published in the **Federal Register.** The plans and plan revisions are available for inspection at the Office of the Federal Register, 1100 L Street, N.W., Washington, D.C. In addition, the plans and plan revisions are available at the following locations:

(1) Public Information Reference Unit, EPA, 401 M Street, S.W., Washington, D.C. 20460.

(2) National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22151 (individual State compilations and revisions approved through August 31, 1981).

(3) The appropriate EPA Regional Office as listed below:

I. Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
J.F.K. Federal Building, Boston, MA 02203
II. New York, New Jersey, Puerto Rico, Virgin Islands
Federal Office Building, 26 Federal Plaza, New York, NY 10278
III. Delaware, District of Columbia, Pennsylvania, Maryland, Virginia, West Virginia
Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106
IV. Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee
345 Courtland, N.E., Atlanta, GA 30365
V. Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
230 South Dearborn Street, Chicago, IL 60604
VI. Arkansas, Louisiana, New Mexico, Oklahoma, Texas
First International Building, 1201 Elm Street, Dallas TX 75270
VII. Iowa, Kansas, Missouri, Nebraska
324 East 11th Street, Kansas City, MO 64106
VIII. Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
1860 Lincoln Street, Denver, CO 80295

IX. Arizona, California, Hawaii, Nevada, Guam, American Samoa
215 Fremont Street, San Francisco, CA 94105
X. Washington, Oregon, Idaho, Alaska
1200 6th Avenue, Seattle, WA 98101

* * * * *

[FR Doc. 82-24160 Filed 9-2-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[A-4-FRL 2190-6; SC-002]

Approval and Promulgation of Implementation Plans; South Carolina; Revisions in Bubble and Incinerator Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today approves revisions in South Carolina's alternative emission limitation option (bubble) and incinerator regulations. This action was proposed on May 20, 1982, at page 21859 of the **Federal Register.** These revisions will: (1) Allow alternative emission limits to be used in certain cases without formal approval by EPA and; (2) liberalize the State's opacity requirements for incinerators.

DATE: These actions are effective October 4, 1982.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460
Air Management Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365
Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005
South Carolina Department of Health and Environmental Control, Bureau of Air Quality Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas Cook, EPA Region IV, Air Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, 404/881-2864 (FTS 257-2864).

SUPPLEMENTARY INFORMATION: EPA proposed these revisions concurrently with South Carolina on May 20, 1982. (See page 21859 of the **Federal Register** for a complete discussion.) These regulatory amendments to South Carolina's air pollution control regulation and standards were submitted to the South Carolina General Assembly on February 9, 1982, and became effective May 28, 1982. The final revisions were submitted to EPA on June 7, 1982, and except for typographical and other minor corrections, are the same as the proposed revisions.

Public Comments. EPA received one comment, which favored EPA approval of South Carolina's revised regulation for alternative emission options (bubbles).

Action. Based on the foregoing, EPA hereby approves South Carolina's revised regulation No. 62.5, standard No. 3, visible emissions from incinerators; and regulation No. 62.6, standard No. 6, alternative emission limitation options, with the exception of Section II Part D dealing with "designated pollutants" under Section 111(d) of the Clean Air Act. EPA will review Section II Part D in conjunction with South Carolina's Section 111(d) plan, and will be taking action on it in a separate **Federal Register** Notice. This action is effective October 4, 1982.

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

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

Incorporation by reference of the South Carolina State Implementation Plan was approved by the Director of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

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

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

Dated: August 24, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart PP—South Carolina

In § 52.2120, paragraph (c) is amended by adding subparagraph (23) as follows:

§ 52.2120

Identification of plan.

* * * * *

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

(23) Revised visible emissions standard for incinerators and revised regulation for alternate emission limitation options (bubbles), submitted on June 7, 1982, by the South Carolina Department of Health and Environmental Control. EPA is not taking action on that portion of this regulation (Regulation No. 62.5, Standard No. 6, Section II, Part D) pertaining to alternative emission limitation options for designated pollutants subject to regulation under Section III(d) of the Clean Air Act.

[FR Doc. 82-24356 Filed 9-2-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[A-2-FRL 2193-6; Region II Docket No. 3]

Revision to the Commonwealth of Puerto Rico Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces Environmental Protection Agency approval of a visible emissions variance issued by the Commonwealth of Puerto Rico to the Owen-Illinois of Puerto Rico Corporation's Vega Alta glass making facility, ovens "A" and "B." The variance raises the allowable visible emissions limit as regulated under Commonwealth Rule 403, "Visible Emissions," from 20 percent opacity to 50 percent opacity for each furnace.

DATES: This variance will remain in effect until September 3, 1985. This action will be effective November 2, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: All comments should be addressed to: Jacqueline E. Schafer, Regional Administrator, Environmental Protection Agency, Regional II Office, 26 Federal Plaza, New York, New York 10278. Copies of the SIP revision are available at the following addresses for inspecting during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278
Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460
The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408
Environmental Quality Board, 204 Del Parque Street, Santurce, Puerto Rico 00910

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Room 1005, 26 Federal Plaza, New York, New York, 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION: On April 26, 1982 the Environmental Protection Agency (EPA) received from Puerto Rico a proposed revision to the Commonwealth's Implementation Plan. The Commonwealth requested EPA approval of a visible emissions variance which it issued under the provisions of Rule 301, "Variances Authorized," of its "Regulation for the Control of Atmospheric Pollution." The proposed variance was subsequently modified by the Commonwealth through a July 8, 1982 letter sent to EPA.

The effect of this variance is to establish an average opacity limit, at 50 percent, applicable to ovens "A" and "B" of the Owens-Illinois Vega Alta glass plant. This limit is based on visible emission observations taken during stack tests which were conducted to determine compliance with the mass emission standard of Rule 407, "Process Sources." It represents a variance to the present average opacity standard of Rule 403, "Visible Emissions," Section A.1, which provides for a 20 percent opacity limitation. Rule 403, Section A.2, requiring that visible emissions not exceed 60 percent opacity for a period or periods of more than four minutes in any thirty-minute interval, remains applicable to these sources.

The Commonwealth's submittals consist of an Owens-Illinois glass plant source emissions test report (including visible emission observations taken throughout the stack test), test evaluation information from the Environmental Quality Board (EQB), copies of three resolutions of EQB, a certification that adequate public notice was provided by EQB and that no comment or request for public hearing was received, and a letter modifying the proposed variance. The Commonwealth approved the variance for a three-year period from the date of EPA's approval.

EQB's analysis of the Owens-Illinois oven tests indicates that for three tests of oven "A" the allowable particulate emission rate was 11.4 lbs/hr, the actual particulate emission rate was between 6.38 and 8.40 lbs/hr, and the average opacity was between 44 and 52 percent. For four tests of oven "B," the allowable particulate emission rate was 12.3 lbs/hr, the actual particulate emission rate was between 6.59 and 7.73 lb/hr, and the average opacity was between 45 and 55 percent. These data support EQB's conclusion that these sources would continue to meet applicable mass emission standards as long as average opacity does not exceed 50 percent.

This notice is issued as required by Section 110 of the Clean Air Act, as amended. The Administrator's decision regarding approval of this proposed plan revision is based on its meeting the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51.

EPA is approving this SIP revision request without prior proposal because it is viewed as noncontroversial and no adverse comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves a state action. It imposes no new requirements.

The Office of Management and Budget (OMB) has exempted this regulation from OMB review requirements of Executive Order 12291.

List of Subjects in 40 CFR Part 52

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

Dated: August 24, 1982.

(Sections 110 and 301, Clean Air Act, as amended (42 U.S.C. 7410 and 7601))

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Puerto Rico was approved by the Director of the Federal Register on July 1, 1982.

John W. Hernandez,
Acting Administrator, Environmental Protection Agency.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations, is amended as follows:

Subpart BBB—Puerto Rico

Section 52.2720 is amended by adding new paragraph (c)(29) as follows:

§ 52.2720 Identification of plan.

* * * * *

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

* * * * *

(29) Revision submitted by the Puerto Rico Environmental Quality Board on April 26, 1982, as modified by a July 8, 1982 letter, which grants a visible emissions standard variance to ovens "A" and "B" of the Owens-Illinois, Inc. Vega Alta plant.

[FR Doc. 82-24393 Filed 9-22-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL No. 2180-3]

Designations of Areas for Air Quality Planning Process; Attainment Status Designations; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This rulemaking revises the Total Suspended Particulate (TSP) designation for Clark, Dubois, and Dearborn Counties to reduce the size of the nonattainment areas. It also redesignates a portion of Howard County from secondary nonattainment to attainment for TSP. This revision is based on a request from the State of Indiana to redesignate these areas and on the supporting data the State submitted. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change.

DATE: This action will be effective November 2, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the redesignation request, technical support documents

and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20480

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

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Anne Ernstein, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6036.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Clean Air Act the Administrator of EPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrants.

EPA's criteria for data that warrant redesignating an area are set out in the June 12, 1979 memo, "Section 107 Redesignation Criteria", by Richard G. Rhoads, then Director of EPA's Control Program Development Division. In general, a change from a primary nonattainment designation to either secondary nonattainment or attainment must be supported by either:

(1) Eight consecutive quarters of recent data on ambient air quality which shows no violations of the appropriate NAAQS, or

(2) Four consecutive quarters of the most recent data on ambient air quality which show both (a) no violation of the appropriate NAAQS and (b) air quality improvement that results from legally enforceable emission reductions.

On October 5, 1978, EPA designated the following areas in Clark, Dearborn and Dubois Counties as primary nonattainment for TSP and the following areas in Howard County as secondary nonattainment for TSP (40 CFR 81.315):

Clark—Primary Nonattainment: Jeffersonville, Charlestown, Silver Creek, Utica Townships
Attainment: Remainder of the County
Dubois—Primary Nonattainment: Bainbridge, Marion and Patoka Townships
Attainment: Remainder of County
Dearborn—Primary Nonattainment: Lawrenceburg, Manchester, Center and Hogan Townships
Attainment: Remainder of County
Howard—Secondary Nonattainment: Center and Howard Townships
Attainment: Remainder of County

On April 15, 1982, the State of Indiana requested EPA to reduce the size of primary nonattainment areas as follows:

Clark—Primary Nonattainment: Jeffersonville Township
Attainment: Remainder of the County
Dubois—Primary Nonattainment: Bainbridge Township
Attainment: Remainder of the County
Dearborn—Primary Nonattainment: Lawrenceburg Township

In addition, on May 21, 1982, the State submitted a request to redesignate a portion of Howard County, from secondary nonattainment to attainment of the TSP standards.

To support these redesignation requests, the State of Indiana submitted reports containing relevant monitoring and available modeling data from 1979–1981.

In Clark County, the monitor data show continued violation of the primary TSP NAAQS in Jeffersonville Township. Monitor data from a site in Charlestown Township show attainment of the standards. In addition, air quality modeling with the EPA approved Climatological Dispersion Model (CDM) shows attainment of the standards in Charlestown, Silver Creek, and Utica Townships.

In Dubois County, monitor data from a site in Jasper (Bainbridge Township) show continued violations of the primary TSP NAAQS. CDM modeling shows attainment for the remainder of the county with the exception of small areas in Madison and Patoka Townships. For these areas, the modeling indicates that agricultural tilling and other nontraditional TSP sources are responsible for the high modeled values. Because there is a lack of major industrial development and because of low population densities in Madison and Patoka Townships, EPA's Rural Fugitive Dust Policy in the **Federal Register**, March 3, 1978, (43 FR 8963) is applicable; and these townships can be redesignated to attainment for TSP.

In Dearborn County, monitor data from a site in Lawrenceburg Township show continued violation of the primary TSP NAAQS. CDM modeling shows attainment in Center and Hogan Townships, and nonattainment in Lawrenceburg and Manchester Townships. The modeled violations in Manchester Township, however, are attributable to agricultural tilling and other non-industrial sources; and the Rural Fugitive Dust Policy is applicable. Therefore, Manchester as well as Center and Hogan Townships can be redesignated to attainment for TSP.

In Howard County, the State submitted monitor data from a site in Kokomo which shows attainment of the TSP standard and a listing of industrial TSP sources in the County. A previous modeling analysis performed by the State shows that the Kokomo monitor is representative of the location of higher TSP concentrations in the county. Therefore, the county can be redesignated to attainment for TSP.

The TSP redesignation requests by the State of Indiana for portions of Clark, Dubois, Dearborn and Howard Counties satisfy EPA's policies on redesignations. Therefore, EPA today approves the redesignations, as Indiana requested, of parts of Clark, Dubois, and Dearborn Counties from primary nonattainment to attainment for TSP and the redesignation of the part of Howard County which was designated secondary nonattainment to attainment for TSP. EPA's approval of these redesignations today does not affect in any way EPA's July 16, 1982, approval of emission limitations for these Counties. EPA's approval of the redesignation for Howard County removes the growth restrictions of Section 110(a)(2)(i) from this County.

Because EPA considers today's action noncontroversial and routine, the Agency is approving it today without prior proposal. The action will become effective on November 2, 1982. However, if the Agency receives notice by October 4, 1982 that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

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

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 2, 1982. This action

may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2))

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d), Clean Air Act, as amended (42 U.S.C. 7407))

Dated: August 24, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES—INDIANA

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Section 81.315 is amended by revising the Clark, Dubois, Dearborn and Howard Counties TSP designations.

§ 81.315 Indiana

INDIANA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Clark County:				
Jeffersonville Township	X			
Remainder of Clark County				X
Dearborn County:				
Lawrenceburg Township	X			
Remainder of Dearborn County				X
Dubois County:				
Bainbridge Township	X			
Remainder of Dubois County				X
* * *	*	*	*	*
Howard County				X
* * *	*	*	*	*

[FR Doc. 82-24392 Filed 9-2-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[ME 509; A-1-FRL-2180-1a]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Redesignations; Maine

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of final rule.

SUMMARY: The EPA gives notice that the final rule approving the redesignation of the attainment status of Lincoln, Maine from attainment to nonattainment for total suspended particulates (TSP) on May 4, 1982 (47 FR 19137) has been withdrawn because a timely request to comment on the action was received. The effect of this action will be to withdraw the redesignation so it can be proposed, thus allowing interested parties to comment on the action. The proposal appears elsewhere in today's **Federal Register.**

DATE: This action is effective on September 3, 1982.

ADDRESSES: Copies of the state submittal are available for public inspection during normal business hours at the U.S. Environmental Protection Agency, Region I, Air Management Division—Room 1903, JFK Federal Building, Boston, Massachusetts 02203; U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, DC 20460; Maine Department of Environmental Protection, Bureau of Air Quality Control, State House Station 17, Augusta, Maine 04333.

Written comments should be addressed to Harley F. Laing, Acting Director, Air Management Division, U.S. Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Peter X. Hagerty, Air Management Division, EPA, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5625.

SUPPLEMENTARY INFORMATION: On September 22, 1981, the State of Maine submitted a request for redesignation of the municipality of Lincoln, Maine from attainment to nonattainment for the primary and secondary total suspended particulates (TSP) ambient air quality standards. On May 4, 1982 (47 FR 19137) EPA announced the availability of this submittal and published the redesignation of Lincoln as nonattainment for TSP standards as a final action which would become effective on June 3, 1982 provided no requests to comment on the action were received within 30 days of publication. EPA published a general notice explaining this special procedure on September 4, 1981 (46 FR 44477). (For further information about this redesignation, see 47 FR 19137.)

EPA has received notice that someone wishes to submit adverse or critical comments on the redesignation of Lincoln, Maine. Therefore, in accordance with the procedures described above, EPA is withdrawing the May 4, 1982 redesignation.

Elsewhere in today's **Federal Register** EPA is proposing to redesignate Lincoln nonattainment for TSP and is soliciting comment on that action.

EPA is withdrawing the original publication without providing prior notice and opportunity to comment because it finds there is good cause within the meaning of 5 U.S.C. 553(b) to do so. Notice and comment would be impractical because EPA needs to withdraw its approval quickly in order to consider the comments which members of the public want to submit. In addition, further notice is not necessary because EPA has already informed the public that it would follow this procedure if a request were received to comment on the revision (46 FR 44477). For the same reasons, EPA finds it has good cause under 5 U.S.C. 553(d) to make this withdrawal immediately effective.

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

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today.

(Secs. 110 and 301, Clean Air Act as amended (42 U.S.C. 7410 and 7601))

Dated: August 24, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

PART 81—DESIGNATION OF AIR QUALITY CONTROL REGIONS

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

In § 81.320, the attainment status designation table for TSP for AQCR 109 is revised to read as follows:

§ 81.320 Maine.

MAINE—TSP

Designated areas	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 109—(Downeast) Bangor/Brewer.	.....	X.....	.....	
Baileyville	.....	X.....	.....	
Rest of region	.....	.....	.....	X.

[FR Doc. 82-24323 Filed 9-2-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6315

[M-41231]

Montana; Opening of Lands Subject to Section 24 of the Federal Power Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will open certain lands in Powersite Reserve No. 184 and a portion of the same lands in Power Project No. 2188 in the Gallatin National Forest to the provisions of Section 24 of the Federal Power Act of 1920. This action is necessary to facilitate an exchange proposed by the Forest Service.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Edgar D. Stark, Montana State Office, 406-657-6291.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-209-Montana, it is ordered as follows:

1. The Executive Order of April 19, 1912, creating Powersite Reserve No. 184 is hereby opened subject to the provisions of Section 24 of the Federal Power Act as to the following described land:

Gallatin National Forest

Principal Meridian

T. 11 S., R. 3 E.,
Sec. 25, tract C of HES 883.
Containing 2.40 acres in Gallatin County.

2. The Federal Energy Regulatory Commission in DA-209-Montana has determined that the disposal of the 0.10 acre tract within Tract C of HES 883 in Power Project No. 2188 (formerly Power Project 1274 filed June 12, 1934) subject to the provisions of Section 24 of the Federal Power Act would not be inconsistent with the license for Power Project No. 2188.

3. At 8 a.m. on September 30, 1982, the lands shall be open to disposal by the Forest Service through its exchange provisions, subject to the provisions of Section 24 of the Federal Power Act.

4. The lands have been open to applications and offers under the mineral leasing laws and to location under the mining laws, except the 0.10 acre tract included in licensed Power Project No. 2188 which is closed to location.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

August 25, 1982.

[FR Doc. 82-24318 Filed 9-2-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6397]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NIFIP) enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register.**

In additional, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is

subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special Flood Hazard Area Identified	Date[1]
Arkansas: Jackson	Jacksonport, town of	050102B	Jan. 17, 1975, emergency; July 16, 1980, regular; Sept. 2, 1982, suspended.	Aug. 23, 1974	Sept. 2, 1982
Idaho: Kootenai	Coeur d'Alene, city of	160078B	June 25, 1975, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Mar. 29, 1974, July 23, 1976	Do.
Massachusetts: Middlesex.	Tyngsborough, town of	1250220A	June 18, 1975, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Aug. 2, 1974	Do.
Indiana: Wayne	Spring Grove, town of	180286C	July 10, 1975, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Mar. 30, 1979, Dec. 13, 1974, and Nov. 3, 1978.	Do.
Maryland: Somerset	Crisfield, city of	240062B	Apr. 28, 1975, emergency; June 15, 1981, regular; Sept. 2, 1982, suspended.	Jan. 23, 1976	Do.
Michigan:					
Saginaw	Frankenmuth, city of	260188B	September 5, 1975, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Jan. 23, 1974, Oct. 31, 1975	Do.
Kent	Wyoming, city of	260111B	Apr. 11, 1973, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Nov. 9, 1973, Mar. 7, 1975	Do.
Minnesota:					
Kittson	St. Vincent, city of	270232C	Dec. 17, 1974 emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	July 9, 1976, Aug. 5, 1977, Aug. 9, 1974.	Do.
Olmsted	Stewartville, city of	270332B	May 7, 1975, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	May 3, 1974, Dec. 20, 1974	Do.
Nebraska: Cass	Unincorporated areas	310407A	Dec. 5, 1974, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Nov. 5, 1976	Do.
New Jersey:					
Union	Clark, township of	345290B	July 10, 1970, emergency; Dec. 23, 1971, regular; Sept. 2, 1982, suspended.	Dec. 28, 1971, May 14, 1976	Do.
Gloucester	Natonal Park, borough of	340209B	Jan. 3, 1975, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Apr. 12, 1974, June 3, 1977	Do.
New York: Oswego	New Haven, town of	360655B	Dec. 23, 1975 emergency; Feb. 17, 1982, regular; Sept. 2, 1982, suspended.	July 19, 1974, Apr. 23, 1976	Do.
Minnesota: Anoka	Lino Lakes, city of	270015B	Apr. 30, 1976, emergency; May. 17, 1982, regular; Sept. 3, 1982, suspended.	Dec. 13, 1974, May 17, 1982	Sept. 3, 1982.
North Carolina: Madison.	Unincorporated areas	370152B	Nov. 26, 1973 emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	July 22, 1977	Sept. 2, 1982.
Ohio:					
Fairfield	Bremen, village of	390160B	July 22, 1975, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	June 21, 1974, June 4, 1976	Do.
Licking	Kirkersville, village of	390701A	May 4, 1976, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Feb. 14, 1975	Do.
Perry	New Lexington, village of	390443C	Sept. 15, 1975, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	June 12, 1981, May 17, 1974, Apr. 9, 1976.	Do.
Shelby	Unincorporated areas	390503C	April 3, 1979, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Dec. 23, 1977, Oct. 20, 1978, Dec. 20, 1974.	Do.
Pennsylvania:					
Westmoreland	Rostraver, township of	422184B	Aug. 26, 1974, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	May 24, 1974, June 4, 1976	Do.
Montgomery	Upper Moreland, township of	421909B	Nov. 14, 1974, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Dec. 20, 1974, May 28, 1976	Do.
South Carolina: Florence.	Unincorporated areas	450076B	May 22, 1979, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Apr. 28, 1978	Do.
Texas: Lubbock	Lubbock, city of	480452B	May 24, 1973, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Aug. 30, 1974, June 18, 1976	Do.
Virginia: Accomack	Wachappreague, town of	510005B	Jan. 28, 1975, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Aug. 30, 1974, May 28, 1976	Do.
West Virginia: Wetzel	New Martinsville, city of	540208B	May 12, 1975, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	June 28, 1974, Apr. 9, 1976	Do.
Washington:					
Whatcom	Bellingham, city of	530199B	Apr. 30, 1975, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	June 14, 1974, June 21, 1977	Do.
Do	Nooksack, city of	530203A	Nov. 28, 1975, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Nov. 22, 1974	Do.
Wisconsin:					
Kenosha	Kenosha, city of	550209B	Apr. 14, 1975, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Dec. 28, 1973, July 2, 1976	Do.
Waukesha	Waukesha, city of	550491B	Apr. 2, 1974, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended.	Feb. 8, 1974, May 28, 1976	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act or 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: August 20, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24377 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6396]

Communities With No Special Flood Hazard Areas for the National Flood Insurance Program; Mississippi and New Jersey

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by 100-year flood. Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program of (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of list of Communities with No Special Flood Hazards.

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

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as Zone C. In a Zone C, insurance coverage is available on a voluntary basis at low actuarial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating the rate of a one-story 1-4 family dwelling is $.40 per $100 of coverage. Under the Regular Program, to which your community has been converted, the equivalent rate is $.10 per $100 coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium is $.15 per $100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agency or broker serving the eligible community, or from the National Flood Insurance Program.

The effective date of conversion to the Regular Program would not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazard areas of the specified community and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

The entry reads as follows:

§ 65.8 List of communities with no special flood hazard areas.

State	County	Community	Date of conversion to regular program
Mississippi	Hinds	Town of Edwards.	Aug. 31, 1982
New Jersey	Bergen	Borough of Carlstadt.	Do.
New Jersey	Bergen	Borough of Teterboro.	Do.

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

Issued: August 16, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24192 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6390]

Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program; Pennsylvania

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of list of Communities with Minimal Flood Hazards Areas.

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

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazards areas of the specified community and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State	County	Community	Date of conversion to regular program
Pennsylvania	Carbon	Borough of Bowmanstown	Sept. 3, 1982
Do	Lackawanna	Township of La Plume	Do.
Do	Mercer	Township of Sandy Lake	Do.
New York	Wyoming	Village of Arcade	Sept. 10, 1982
Do	Ulster	Village of Saugerties	Do.
Pennsylvania	Crawford	Township of Beaver	Do.
Do	Mercer	Borough of Jamestown	Do.
Do	....do	Borough of New Lebanon	Do.
Arkansas	Clay	City of St. Francis	Sept. 14, 1982
Oklahoma	Nowata	Town of South Coffeyville	Do.
Texas	Red River	City of Avery	Do.
Do	Upshur	City of Ore City	Do.
New Jersey	Cape May	Township of Dennis	Sept. 17, 1982
Do	Morris	Township of Mine Hill	Do.
New York	Steuben	Town of Hartsville	Do.
Do	Ulster	Town of Lloyd	Do.
Pennsylvania	Mercer	Township of Coolspring	Do.
Do	Franklin	Township of Letterkenny	Do.
Do	Chester	Borough of Oxford	Do.
Do	Berks	Township of Richmond	Do.
Do	Mercer	Township of Sugar Grove	Do.
Arkansas	Mississippi	City of Blytheville	Sept. 21, 1982
Do	Craighead	Town of Cash	Do.
Do	Mississippi	City of Joiner	Do.
Do	....do	City of Keiser	Do.
Do	Randolph	Town of Maynard	Do.
Do	Benton	City of Sulphur Springs	Do.
Oklahoma	Ottawa	City of Picher	Do.
Do	Mayes	Town of Spavinaw	Do.
New York	Steuben	Town of Troupsburg	Sept. 24, 1982
Pennsylvania	Bradford	Township of Franklin	Do.
Arkansas	Poinsett	Town of Tyronza	Sept. 28, 1982
Do	....do	City of Weiner	Do.
Oklahoma	Wagoner	Town of Okay	Do.
Texas	Lamar and Red River	City of Deport	Do.
Do	Lamar	City of Reno	Do.

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

Issued: August 6, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24193 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6181]

National Flood Insurance Program; Final Flood Elevation Determination; Montana

AGENCY: Federal Emergency Management Agency.

ACTION: Deletion of final rule.

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

EFFECTIVE DATE: September 3, 1982.

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

SUPPLEMENTARY INFORMATION: As a result of a recent engineering analysis, the Federal Emergency Management Agency has determined that the notice of final flood elevation determination for the Town of Lima, Beaverhead County, Montana published at 47 FR 10549, on March 11, 1982 should be deleted. After a technical evaluation, a revised notice of proposed flood elevations will be issued, with a ninety-day period specified for comments and appeals.

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

Issued: August 10, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24194 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Arlington, Texas, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

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

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

EFFECTIVE DATE: September 3, 1982.

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

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

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

Map No. H & I 485454 Panel 0020B, published on October 6, 1980, in 45 FR 66097, indicates that Lots 1 and 14 through 20, Block 1; Lots 16 through 19, Block 2; and Lots 22 through 31, Block 3, Corrected Plat, Glen Ridge, Arlington, Texas, as recorded in Volume 388–133, Page 05, in the Office of the County Clerk, Tarrant County, Texas, are located within the Special Flood Hazard Area.

Map No. H & I 485454 Panel 0020B is hereby corrected to reflect that Lots 1 and 20, Block 1; Lots 16 through 19, Block 2; and Lots 22 through 31, Block 3 of the above-mentioned property are not within the Special Flood Hazard Area identified on June 20, 1980. These lots are in Zone B.

Map No. H & I 485454 Panel 0020B is also corrected to reflect that Lots 14 through 19, Block 1 of the above-mentioned property are not within the Special Flood Hazard Area identified on June 20, 1980, with the exception of the area designated for Floodway, Drainage

and Utility Easement as shown on the recorded plat map cited above. These lots are in Zone B.

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

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

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

Issued: August 12, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24198 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5923]

Letter of Map Amendment for the City of Central Point, Oregon, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

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

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

EFFECTIVE DATE: September 3, 1982.

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

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

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

Map No. H & I 410092 Panel 0001C, published on October 21, 1980, in 45 FR 69451, indicates that Lot 4, Block 2, Flagstone Subdivision, Central Point, Oregon, as recorded in Volume 73 of Plats, Page 37, in the Office of the Clerk, Jackson County, Oregon is located within the Special Flood Hazard Area.

Map No. H & I 410092 Panel 0001C is hereby corrected to reflect that the existing structure located on the above-mentioned lot is not within the Special Flood Hazard Area identified on January 19, 1982. This structure is in Zone B.

Pursuant to the provisions of 5 U.S.C. 650(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

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

Issued: August 12, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24199 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Tarpon Springs, Florida, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

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

EFFECTIVE DATE: September 3, 1982.

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

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

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

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

Map Number H & I 120259 A, Panel 02, published on October 6, 1980 in 45 FR 66061 indicates that the property consisting of Lots 1 and 2, Block 117, and Lot 1, Block 118, located in Section 7, Township 27 South, Range 16 East in the City of Tarpon Springs, Florida as recorded in Plat Book 4, Page 79 in the Office of the Clerk of Circuit Court of Pinellas County, is located within the Special Flood Hazard Area.

Map Number H & I 120259 A, Panel 02 is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on January 7, 1977. The property is in Zone B.

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

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

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

Issued: August 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24200 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-6116]

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

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

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

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

EFFECTIVE DATE: September 3, 1982.

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

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

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

Map No. H & I 060336 Panel 0005B, published on July 22, 1981, in 46 FR 37653, indicates that Lots 4 through 7, Stonebridge, Tract 5273, Santa Maria, California, as recorded in Book 97, Pages 90 through 93, in the Office of the Recorder, Santa Barbara County, California, are located within the Special Flood Hazard Area.

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

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

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

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

Issued: August 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24201 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

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

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

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

EFFECTIVE DATE: September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards

Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

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

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

Map Number H & I 125098, Panels 0275 D and 0375 D published on 10/06/80 in 45 FR 66058 indicates that Lot 27 in Block 11 of First Addition to Killian Pines, recorded in Plat Book 103, Page 67 of the Public Records of Dade County, Florida and a portion of Section 20, Township 56 South, Range 39 East as recorded in Official Records Book 11016, Page 1469 of the Public Records of Dade County, Florida are located within the Special Flood Hazard Area.

Map Number H & I 125098, Panels 0275 D and 0375 D are hereby corrected to reflect that the existing structures on the above-mentioned properties are not within the Special Flood Hazard Area identified on November 14, 1980. The existing structures are located in Zone C. However, the properties would still be inundated by a flood having a one-percent chance of occurrence in any given year.

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

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

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

Issued: August 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–24202 Filed 9–2–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6116]

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

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

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

EFFECTIVE DATE: September 3, 1982.

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

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

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

Map Number H & I 120161, Panel 0154 B, published on July 22, 1981, in 46 F.R. 37654, indicates that Lot 17, Block A, Snug Harbor, Sheet 2, Plat Book 2, Page 48 of the Public Records of Martin County, Florida is located within the Special Flood Hazard Area.

Map Number H & I 120161, Panel 0154 B is hereby corrected to reflect that the structure on the above-mentioned property is not located within the Special Flood Hazard Area identified on June 15, 1981. The structure is located in Zone B. However, portions of the property would still be inundated by a flood having a one-percent chance of occurrence in any given year.

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

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

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

Issued: August 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Supports.

[FR Doc. 82–24203 Filed 9–2–82; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. 6306]

Letter of Map Amendment for the Unincorporated Area of Will County, Illinois, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

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

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

EFFECTIVE DATE: September 3, 1982.

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

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

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

Map No. 170695, Panel No. 0110B, published on 5–20–82, in 47 FR 21801, indicates that Lots Nos. 6 through 13, Longleat Unit No. 6A, City of Joliet, Will County, Illinois, recorded as Instrument No. R80–32611, in the Office of the Recorder of Will County, Illinois, are located within the Special Flood Hazard Area.

Map No. 170695, Panel No. 0110B, is hereby corrected to reflect that the above-mentioned lots are not within the Special Flood Hazard Area identified on April 15, 1982. The lots are in Zone C.

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

List of Subjects in 44 CFR Part 70

Flood Insurance, Flood plains.

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

Issued: August 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24204 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA–6349]

Letter of Map Amendment for the City of Henderson, Nevada Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

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

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

EFFECTIVE DATE: September 3, 1982.

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

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

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

Map No. H & I 320005 Panel 0010B, published on July 13, 1982, in 45 FR 30251, indicates that all of Blocks 20 and 21, Summerfield Village, Henderson, Nevada, recorded as Document Number 1449109 in Book 27, Page 63 of Plats in Official Records Book No. 1490, in the Office of the Recorder, Clark County, Nevada, are located within the Special Flood Hazard Area.

Map No. H & I 320005 Panel 0010B is hereby corrected to reflect that the above-mentioned lots are not within the Special Flood Area idenified on June 15, 1982. These lots are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas

on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

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

Issued: August 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24205 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Summit New Jersey Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

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

EFFECTIVE DATE: September 3, 1982.

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

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

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

Map Number H & I 340476 A, Panel 01 published on October 6, 1980 in 45 FR 66030 indicates that Lots 2, 2C, 2D, 7, 7K through 7N, and 11 through 13 of the Pond View Park Subdivision, in the City of Summit, New Jersey as recorded on Plat Map 743–D, in the Register of Deeds Office of Union County, New Jersey, are located within the Special Flood Hazard Area.

Map Number H & I 340476 A, Panel 01 is hereby corrected to reflect that the above-mentioned lots are not within the Special Flood Hazard Area identified on February 2, 1977. The existing structures on the lots mentioned above are located in Zone B.

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

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17084, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: August 11, 1982.

Lee M. Thomas,

Associate Director State and Local Programs and Support.

[FR Doc. 82-24206 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-6048]

Letter of Map Amendment for the City of Arkadelphia, Arkansas Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

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

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

EFFECTIVE DATE: September 3, 1982.

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

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

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

Map No. H & I 050029 Panel 0005B, published on May 12, 1981, in 46 FR 26307, indicates that Proposed Powder Mill Manor Apartments located on a 6.2

acre tract of land in the W½, SW¼, Section 18, T7S, R19W, of the 5th Principle Meridian, Arkadelphia, Arkansas, as recorded in Book F, Page 412, in the Office of the Clerk, Clark County, Arkansas, is located partially within the Special Flood Hazard Area.

Map No. H & I 050029 Panel 0005B is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on April 15, 1981. This property is in Zone C.

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

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

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

Issued: August 12, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24414 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the Town of Erie, Colorado Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

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

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

EFFECTIVE DATE: September 3, 1982.

FOR FURTHER INFORMATION CONTACT:

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

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

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

Map No. H & I 080181 Panel 0002B, published on October 6, 1980, in 45 FR 66109, indicates that the East Side Industrial Tract which lies between Coal Creek and the Union Pacific Railroad in the W½ of the E½ of Section 18, Township 1 North, Range 68 West of the 6th P.M., Erie, Colorado, recorded as Reception No. 1662061 in Book 740, in the Office of the Recorder, Boulder County, Colorado is located within the Special Flood Hazard Area.

Map No. H & I 080181 Panel 0002B is hereby corrected to reflect that the above-mentioned property with the exception of the area described below:

Commencing at that point which is the intersection of the East line of Kattell Avenue with the North line of Cheesman Street in the Town of Erie; running thence North 89° 45′ 36″ East, 530.41 feet along the North line of Cheesman Street and its extension easterly to the true point of beginning:

Thence North 89° 45′ 36″ East, 40.00 feet along the North line of Cheesman Street extended easterly;

Thence South 02° 45′ West, 131.00 feet;

Thence South 13° 30′ West, 289.00 feet;

Thence South 22° 16′ 53″ West, 371.93 feet;

Thence South 00° 45′ East, 187.00 feet;

Thence South 34° 15′ 36″ West, 131.48 feet;

Thence Northerly 149.87 feet along the arc of a 460-foot radius curve to the right (the long chord of said arc bears North 08° 50′ 13″ East, 149.20 feet);

Thence North 18° 10′ 13″ East, 648.00;

Thence Northerly 292.07 feet along the arc of a 600-foot radius curve to the left (the long chord of said arc bears North 04° 13′ 13″ East, 289.19 feet) to the true point of beginning;

is not within the Special Flood Hazard Area identified on October 17, 1978. This property is in Zone C.

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

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

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

Issued: August 12, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24415 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Blaine, Minnesota, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

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

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

EFFECTIVE DATE: September 3, 1982.

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

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

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

Map No. 270007, Panel No. 0005C, published on October 6, 1980, in 45 F.R. 66082, indicates that Lot No. 8, Block 1 and Lots Nos. 3, 10, 19 and 39, Block 2, Lunds Meadowbrook, City of Blaine, Anoka County, Minnesota, as recorded in Book 9, Page 5, in the Office of the Registrar of Titles of Anoka County, Minnesota, are located within the Special Flood Hazard Area.

Map No. 270007, Panel No. 0005C, is hereby corrected to reflect that the existing structures located on the above-mentioned property are not within the Special Flood Hazard Area identified on June 19, 1981. The structure located on Lot No. 39, Block 2, is in Zone B. The structures located on Lot No. 8, Block 1, and Lots Nos. 3, 10, and 19, Block 2, are in Zone C.

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

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

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

Issued: August 12, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24416 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Rochester, Minnesota, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

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

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

EFFECTIVE DATE: September 3, 1982.

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

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

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

Map No. 275246, Panel No. 0005B, published on October 6, 1980, in 45 FR 66083, indicates that the existing structure located on the northern portion of Lot No. 8, Block 33, Northern Addition, City of Rochester, Olmsted County, Minnesota, as recorded in Book of Plats 1713, Pages A and B, in the Office of the Recorder of Olmsted County, Minnesota, is located within the Special Flood Hazard Area.

Map No. 275246, Panel No. 0005B, is hereby corrected to reflect that the above-mentioned structure is not within the Special Flood Hazard Area identified on February 4, 1981. The structure is in Zone B.

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

regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

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

Issued: August 12, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24417 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-8; RM-3950]

TV Broadcast Station in Seattle and Tacoma, Washington; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action exchanges noncommercial educational UHF TV Channels *28 and *62, between Seattle and Tacoma, Washington, respectively, and modifies the license of TV Station KTPS to specify operation on *28 in Tacoma, as requested by Tacoma School District No. 10.

DATE: Effective October 26, 1982.

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

FOR FURTHER INFORMATION CONTACT: Phil Cross, Broadcast Bureau, (202) 632–5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: August 18, 1982.

Released: August 26, 1982.

In the Matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Seattle and Tacoma, Washington); BC Docket No. 82–8, RM–3950; report and order (Proceeding Terminated).

1. The Commission has before it a *Notice of Proposed Rule Making* herein, published in the **Federal Register** on March 4, 1982 (47 FR 9249). Tacoma School District No. 10 ("petitioner"), licensee of noncommercial educational Station KTPS, Channel *62, Tacoma, Washington, seeks the reassignment of UHF–TV Channel *28 from Seattle, Washington, to Tacoma, Washington, and of Channel *28 from Seattle to Tacoma so it could modify its operation on Channel *62 from Tacoma to Seattle.

2. Petitioner seeks operation on a lower UHF noncommercial educational TV channel for a number of stated public interest reasons (paragraph 8, *infra*) and requests that its license be modified to specify operation on Channel *28.

3. As the *Notice* indicated, petitioner was one of three applicants for Channel 20 in Tacoma. It proposed to convert its noncommercial educational operation from Channel *62 to Channel 20. Two other applicants had proposed commercial use of the channel. When it was clear to petitioner that the three-way contest for Channel 20 would become costly and time consuming, a settlement agreement was reached whereby petitioner would instead seek the reassignment of Channel *62 to Channel *28 and allow Channel *62 to be moved to Seattle. A three-way settlement was reached in which Family Broadcasting, the successful applicant for Channel 20 at Tacoma, agreed to specify a site for Channel 20 which would meet the mileage separation requirements to petitioner's desired site on Channel *28. The other commercial applicant, Tacoma Community TV, Inc., agreed to a dismissal of its application. As a result, both Seattle and Tacoma would retain two noncommercial educational assignments and a first commercial UHF station could be authorized for Tacoma.

4. Petitioner filed comments and reply comments in support of its proposal. Family Broadcasting Company ("Family"), permittee of Channel 20, Tacoma, filed comments supporting petitioner's proposal. Northwest Christian Television ("Northwest"), applicant for a low power television station on Channel *28, Seattle, filed comments opposing the proposal.

5. Seattle (population 493,846),[1] the seat of King County (population 1,269,749) is located in northwest Washington. Tacoma (populatoin 158,501), the seat of Pierce County (population 485,643), is located approximately 40 kilometers (25 miles) south of Seattle.

6. Seattle is served by three commercial TV stations (KOMO–TV (Channel 4); KING–TV (Channel 5); KIRO–TV (Channel 7) and one noncommercial educational station, KCTS–TV (Channel *9). One additional commercial channel (Channel 22) has three applications pending. One other noncommercial educational channel (Channel *28) is unoccupied and unapplied for.

7. Tacoma is served by two commercial TV stations (KSTW (Channel 11) and KCPQ–TV (Channel 13)). A third commercial TV station was recently approved for Channel 20. Also, Tacoma has two noncommercial channels (Channel *56, unoccupied and unapplied for, and Channel *62, Station KTPS, licensed to the petitioner herein).

8. As set forth in the *Notice*, petitioner offered several public interest reasons for having a lower UHF noncommercial educational TV station in Tacoma. Petitioner argued that by making the lower UHF channel available to Tacoma, the Commission would thereby effectuate the settlement agreement reached between the applicants for Channel 20 so as to avoid a lengthy and costly hearing. In turn, service to the public from a station on Channel 20 could commence much earlier. Also, petitioner asserted that, in the southwestern portion of Washington, the terrain and the lack of large communities combine to make the area dependent on translators which are authorized on Channels 55–69 (§ 74.702 (b)(7) and (d)). Thus operation on Channel *28 instead of *62 at Tacoma would avoid potential interference problems to reception in that area. Finally, petitioner argued that Seattle will not be left without noncommercial educational service since it already has a VHF station (Channel *9) and will get Channel *62 while Tacoma would retain two reserved UHF channels.

9. Petitioner affirmed in its comments that it would shift its operation as soon as possible to Channel *28, if the channel is assigned to Tacoma.

10. Family states that it "strongly" supports the proposal because it would eliminate potential interference to translator stations and thereby permit petitioner to improve its service to the public in the Tacoma area. Family requests that permanent modification of petitioner's KTPS license not be made until Family's pending application[2] for change of transmitter site has received approval of all necessary federal, state and local authorities and such approvals have become final as a matter of law.

11. Northwest's opposition to the instant proposal is grounded on the assertion that it would preclude a grant

[1] Population figures are taken from 1980 U.S. Census, Advance Report.

[2] Family's application for modification of its outstanding construction permit to specify a site for Channel 20 which will meet the spacing requirements with respect to petitioner's site for Channel *28 was granted on August 12, 1982.

of Northwest's application for a low power television station on Channel *28 in Seattle. Northwest also charges that petitioner's sole reason for seeking operation on Channel *28 in Tacoma is to obtain a lower channel number which it asserts is clearly contrary to Commission policy. Northwest requests that it should be permitted to amend its low power television application to specify a new channel and keep its place in the processing line, in the event that the instant proposal is granted.

12. As stated in our *Notice of Proposed Rule Making*, it has been our policy to refuse to assign lower UHF TV channels solely because the interested party desires the lower portion of the UHF band.[3] However, where a public interest reason for doing so is found, we generally have no objection to the substitution of a lower UHF channel. Here, several valid reasons exist for granting petitioner's request. We found merit in eliminating a contested hearing and thereby bringing service to the public more expeditiously. Further, while we need not consider the impact that a proposal may have on translators (§ 74.702(d) and (c)(3) of the Commission's Rules), we also have no desire to disturb the current service provided by the translators in southwestern Washington. In particular here, the translators are limiting the signal of Station KTPS in this area. The use of Channel *28 could provide better service by covering more area since the translators are primarily confined to the upper portion of the UHF band. We note that neither Seattle nor Tacoma would suffer a net reduction in reserved assignments by this proposal.

13. Northwest's objection to this proposal on the ground that it would preclude a grant of Northwest's application for a low power television station on Channel *28 in Seattle must be rejected. A full-service television station takes precedence over a proposal for a low power television facility. *Report and Order*, BC Docket No. 78–253, *In the Matter of Future Role of Low Power Television Broadcasting and Television Translators*, released April 26, 1982, F.C.C. 82–107. Northwest's request to amend its application and keep its place on the processing line is a matter outside the scope of this proceeding.

14. We conclude from the record before us that the exchange of UHF–TV Channels *28 and *62 as proposed by petitioner would serve the public interest, convenience and necessity.

15. No other parties have expressed an interest in applying for operation on Channel *28, if assigned to Tacoma. See, *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976). Thus petitioner's request for modification of its license to specify operation on Channel *28 in Tacoma will be granted.

16. In order to comply with the spacing requirements, the transmitter for Channel *28 must be located 20 miles from the Channel 20 site.

17. Canadian concurrence in this action has been obtained.

18. Authority for the adoption of the amendment 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 section 204(b) and § 0.281 of the Commission's Rules.

19. Accordingly, it is ordered, that effective October 26, 1982, § 73.606(b) of the Commission's Rules, the TV Table of Assignments is amended as follows:

City	Channel No.
Seattle, Washington	4, 5+, 7, *9, 22+, and *62.
Tacoma, Washington	11+, 13–, 20, *28, and *56.

20. It is further ordered, that pursuant to § 316 of the Communications Act of 1934, as amended, petitioner's license for Station KTPS, Tacoma, Washington, is modified to specify operation on Channel *28, effective October 26, 1982, 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.

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

22. For further information concerning the above, contact Phil Cross, Broadcast Bureau, (202) 632–5414.

(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. 82-24364 Filed 9-2-82; 8:45 am]

BILLING CODE 6712-01-M

[3] See, *High Point, N.C.*, 44 FR 67665 (1979); *Kalamazoo, Michigan*, 44 FR 67667 (1979); Vancouver, Washington, 46 R.R. 2d 1498 (1980), and *Mansfield and Marion, Ohio*, 45 FR 81203 (1980).

47 CFR Part 73

[BC Docket No. 82–264; RM–4064]

FM Broadcast Station in Watertown, New York; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns channel 228A to Watertown, New York, in response to a petition filed by 790 Communications Corporation. The channel will provide a second FM service to Watertown.

DATE: Effective October 26, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 18, 1982.

Released: August 26, 1982.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Watertown, New York); BC Docket No. 82–264, RM–4064; report and order (Proceeding Terminated).

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 47 FR 22127, published March 25, 1982, proposing the assignment of Channel 228A to Watertown, New York, as that community's second FM assignment in response to a petition filed by 790 Communications Corporation ("petitioner"). Petitioner filed comments in support of the proposal and reaffirmed its intention to apply for the channel, if assigned. No opposing comments were received.

2. As requested in the *Notice*, petitioner submitted preclusion data listing the communities affected by the proposal. However, this information is no longer required in view of the action taken in the *Second Report and Order* in BC Docket No. 80–130, 90 F.C.C. 2d 88 (1982).

3. A site restriction of 6 miles northwest of Watertown is required for Channel 228A.

4. Canada has granted a special negotiated short spacing for Channel 228A at Watertown.

5. The Commission has determined that the public interest would be served by assigning Channel 228A to Watertown, New York, since it would

provide a second FM service to that community.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 and § 0.204(b) of the Commission's Rules, it is ordered, that effective October 26, 1982 § 73.202(b) of the Commission's Rules is amended with respect to the following community:

City	Channel No.
Watertown, New York	228A and 248.

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

8. For further information, contact Mark N. Lipp, 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. 82-24362 Filed 9-2-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1039, 1090, and 1300

[Ex Parte No. 230 (Sub-5)]

Improvement of TOFC/COFC Regulation

AGENCY: Interstate Commerce Commission.

ACTION: Further extension of effective date to clarification of final rule (exemption).

SUMMARY: In Ex Parte No. 230 (Sub-No. 5), Improvement of TOFC/COFC Regulations, 365 I.C.C. 728 (decided June 11, 1982, and published June 21, 1982 at 47 FR 26634), the Commission clarified certain antitrust immunity matters in the Commission's decision published at 46 FR 14348 (February 27, 1981). That earlier decision exempted rail and truck service in connection with trailer on flatcar (TOFC) and container on flatcar (COFC) service. In response to a request filed by the Association of American Railroads (AAR), the Commission extended the effective date of its clarifying decision from August 20, 1982 to September 1, 1982. 47 FR 33274 (August 2, 1982). The AAR has requested a further extension to November 1, 1982. This extension is necessary to enable the railroads to conclude necessary bilateral agreements on those matters which can no longer be incorporated in the TOFC/COFC agreements.

EFFECTIVE DATE: The effective date of the Commission's June 11, 1982, decision is November 1, 1982.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION:

Decided: August 27, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Gradison concurred with a separate expression. Commissioner Sterrett was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

Commissioner Gradison, concurring:

While I agree that the requested extension should be granted, I question whether a two month delay in effectiveness of the decision of June 11, 1982 (365 I.C.C. 728) is enough or, indeed, if the decision should ever become effective. I continue to believe that the Commission should reconsider that decision.

The most recent request by the Association of American Railroads for an extension of the effective date points out some of the difficulties and problems with moving away from a centralized system for dealing with railroad equipment. The sheer volume of contract negotiations necessary to reach bilateral agreements places a heavy burden on railroads without apparent compensating benefits to railroads, shippers or the public. In addition, gaps might occur where no agreements exist, leading ultimately to disruption of commerce and loss of service.

[FR Doc. 82-24211 Filed 9-2-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 172
Friday, September 3, 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 Part 278

[Amdt. No. 223]

Food Stamp Program; Disqualification of Wholesale Food Concerns

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish the penalty to be assessed against an authorized wholesale firm which redeems food stamps from retail firms or organizations for which it is not authorized to redeem food stamps, or which redeems more food stamps in a particular period than do the retail firms and organizations for which it is authorized to redeem food stamps. The publication on December 29, 1981, of new restrictions on wholesalers created a need to specify the penalty for violation of the rules. The Department intends that this action will deter violations and ensure that wholesale firms know beforehand the penalty for violations.

DATE: Comments must be received November 2, 1982.

ADDRESS: Comments should be submitted to Virgil Conrad, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), at 3101 Park Center Drive, Alexandria, Virginia, Room 706.

FOR FURTHER INFORMATION CONTACT: Herbert A. Scurlock, Director, Federal Operations Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, (703) 756-3487.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291. The Department has reviewed this rule under Executive Order 12291 and Secretary's Memorandum No. 1512-1. The rule will affect the economy by less than $100 million a year. The rule will not significantly raise costs or prices for consumers, industries, government agencies or geographic regions. There will not be 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. Therefore, the Department has classified the rule as "not major".

Regulatory Flexibility Act. This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96-354. The Administrator of the Food and Nutrition Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action will primarily affect wholesale food concerns authorized under the December 29, 1981, amendments to the regulations who are suspected of violating the regulations. The number of such firms will be very small.

Recordkeeping Requirements. This rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

Background

Section 9(b) of the Food Stamp Act of 1977, as amended, states that no wholesale food concern may be authorized unless its participation is required for the effective and efficient operation of the program. Paragraph 278.3(a) of the Food Stamp Program regulations was amended December 29, 1981 (46 FR 62808) to eliminate lack of consistency in carrying out the intent of Congress on wholesaler authorization. That amended paragraph states that an authorized wholesale food concern may accept food stamps from one or more *specified* authorized retail food stores, nonprofit cooperative food-buying ventures, group living arrangements for the blind or disabled, treatment programs for drug addicts or alcoholics, or shelters for battered women and children. To deter possible violations and to ensure that authorized wholesale food concerns know beforehand the penalty for violating this rule, the Department is amending the rules on penalties to specify that accepting food stamps from any firm or organization which a wholesaler is not authorized to serve, claiming to have redeemed more food stamps from a firm or organization than the firm or organization actually redeemed through the wholesaler, or redeeming more food stamps during a specified period than are redeemed by the authorized firms and organizations a wholesaler is authorized to serve, will subject an authorized wholesaler to a one-year period of disqualification from the program.

List of Subjects in 7 CFR Part 278

Administrative practice and procedure, Banks, banking, Claims, Food stamps, Groceries—retail, Groceries, general line-wholesaler, Penalties.

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND FINANCIAL INSTITUTIONS

For the reasons set out in the preamble, it is proposed that Part 278 of Chapter II of Title 7 of the Code of Federal Regulations be amended as follows:

In § 278.6, a new paragraph (e)(2)(iv) is added to read as follows:

§ 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualification.

* * * * *

(e) * * *

(2) * * *

(iv) The evidence shows that: (A) A wholesale food concern's redemptions of coupons for a specified period of time exceeded the redemptions of all the specified authorized retail food stores, nonprofit cooperative food-purchasing ventures, group living arrangements, drug addict and alcoholic treatment programs, and shelters for battered women and children which the wholesale food concern was authorized to serve;

(B) A wholesale food concern's stated redemptions of coupons for a particular retail food store, nonprofit cooperative food-purchasing venture, group living arrangement, drug addict and alcoholic treatment program, or shelter for battered women and children exceeded

the actual amount of coupons which that firm or organization redeemed through the wholesaler; or

(C) A wholesale food concern accepted coupons from a firm or other entity which it was not authorized to serve.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Programs No. 10.551, Food Stamps)

Dated: August 30, 1982.

Robert E. Leard,

Associate Administrator.

[FR Doc. 82-24090 Filed 9-2-82; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-130 (Colorado-28)]

High-Cost Gas Produced From Tight Formations; Colorado

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Dakota and Morrison Formations each be designated a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on October 15, 1982.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on September 15, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION: Issued: August 31, 1982.

In the matter of High-Cost Gas Produced from Tight Formations; Docket No. RM79–76–130, (Colorado-28); proposed rulemaking by Director, OPPR.

Background

On July 23, 1982, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Dakota and Morrison Formations located in Garfield, Mesa, and Rio Blanco Counties, Colorado, each be designated a tight formation. On August 16, 1982, the United States Department of the Interior, Minerals Management Service (MMS) (formerly the U.S. Geological Survey) notified the Commission of its partial concurrence with Colorado's recommendation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Dakota and Morrison Formations each be designated a tight formation should be adopted, and to determine whether MMS' recommendation that a portion of Colorado's recommended area be excluded from tight formation designation should be adopted. Colorado's recommendation and supporting data and MMS' recommendation are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended portions of the Dakota and Morrison Formations underlie parts of Garfield, Mesa, and Rio Blanco Counties in western Colorado. Approximately 578,970 acres are included in all or parts of Townships 1 North, 1 South, 2 South, and 3 South, Ranges 100 through 104 West, 6th P.M., Townships 4 and 5 South, Ranges 102 through 104 West, 6th P.M., Townships 6 through 8 South, Ranges 103 through 105 West, 6th P.M., Townships 9 and 10 South, Ranges 103 and 104 West, 6th P.M., and Townships 1 and 2 North, Ranges 2 and 3 West, Ute P.M. About 94 percent of the recommended area consists of Federal and Indian acreage.

The area recommended for exclusion by the MMS is that portion of the Dakota Formation underlying Section 31, Township 6 South, Range 103 West, Sections 26, 27, 34, 35 and 36, Township 6 South, Range 104 West, Section 6, Township 7 South, Range 103 West, and Sections 1 and 2, Township 7 South, Range 104 West, all 6th P.M.

The Dakota Formation consists of Cretaceous age sandstones, and is overlain by the Dakota Silt and underlain by the Morrison Formation. The lower portion of the Dakota Formation has also been described as the Cedar Mountain Formation or the Burro Canyon Formation. The depth to the top of the Dakota Formation in the recommended area ranges from zero to more than 11,600 feet, and averages about 5,450 feet. The thickness ranges from about 100 to over 300 feet, and averages about 150 feet.

The Morrison Formation consists of Jurrasic age sandstones and is overlain by the Dakota Formation and underlain by the Entrada Formation. The depth to the top of the Morrison Formation ranges from 1,700 to 11,800 feet and averages about 5,590 feet. The thickness ranges from about 300 to more than 600 feet.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Order Nos. NG–32–1 and NG–33–1, Cause No. NG–32 and NG–33 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay sections of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the Dakota or Morrison Formations, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

On August 16, 1982, MMS notified the Commission of its partial concurrence with Colorado's recommendation. MMS states that there is a structural feature within the Dakota Formation in which the majority of wells do not meet the Commission's guidelines for pre-stiumlation flow rates, and recommends that about 5,120 acres containing the structural feature be deleted from the Dakota tight formation designation.

Section 271.703(c)(2)(i) states that the Commission will approve the designation of any formation recommended by a jurisdictional agency if the formation meets each of the guidelines set forth in § 271.703(c)(2)(i)

(A), (B), (C), and (D). Preliminary Commission staff analysis indicates that Colorado's recommendation may not meet the guideline specified in § 271.703(c)(2)(i)(B). Colorado asserts that, based on cumulative frequency distributions of well production data, 82 percent of wells drilled in the Dakota Formation and 91 percent of wells drilled in the Morrison Formation would not be expected to exceed the maximum allowable production rate set out in the regulations. Staff computations indicate that the average pre-stimulation flow rate for wells now completed in the Dakota Formation may exceed the allowable rate. Comments are specifically requested on this issue.

Colorado further asserts that existing State and Federal Regulations assure that development of these formations will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Dakota and Morrison Formations, as described and delineated in Colorado's recommendation as filed with the Commission, each be designated a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 15, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–130 (Colorado–28), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than September 15, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432.)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703 is amended by adding new paragraphs (d) (134) and (135) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(134) *Dakota Formation in Colorado.* RM79–76–130 (Colorado-28).

(i) *Delineation of formation.* The Dakota Formation is located in Garfield, Mesa, and Rio Blanco Counties, Colorado, in all or parts of Townships 1 North, 1 South, 2 South, and 3 South, Ranges 100 through 104 West, 6th P.M., Townships 4 and 5 South, Ranges 102 through 104 West, 6th P.M., Townships 6 through 8 South, Ranges 103 through 105 West, 6th P.M., Townships 9 and 10 South, Ranges 103 and 104 West, 6th P.M., and Townships 1 and 2 North, Ranges 2 and 3 West, Ute P.M.

(ii) *Depth.* The Dakota Formation is overlain by the Dakota Silt and is underlain by the Morrison Formation. The average thickness is about 150 feet. The average depth to the top of the Dakota Formation is 5,450 feet.

(135) *Morrison Formation in Colorado.* RM79–76–130 (Colorado-28).

(i) *Delineation of formation.* The Morrison Formation is located in Garfield, Mesa, and Rio Blanco Counties, Colorado, in all or parts of Townships 1 North, 1 South, 2 South, and 3 South, Ranges 100 through 104 West, 6th P.M., Townships 4 and 5 South, Ranges 102 through 104 West, 6th P.M., Townships 6 through 8 South, Ranges 103 through 105 West, 6th P.M., Townships 9 and 10 South, Ranges 103 and 104 West, 6th P.M., and Townships 1 and 2 North, Ranges 2 and 3 West, Ute P.M.

(ii) *Depth.* The Morrison Formation is overlain by the Dakota Formation and is underlain by the Entrada Formation. The thickness ranges from about 300 to more than 600 feet. The average depth to the top of the Morrison Formation is 5,590 feet.

[FR Doc. 82–24389 Filed 9–2–82; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–125 (Oklahoma-3)]

High-Cost Gas Produced From Tight Formations; Oklahoma

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Oklahoma Corporation Commission that the Upper and Lower Cherokee (Red Fork) formations be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on October 15, 1982.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on September 15, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or John Roy Johnson, (202) 357–8731.

SUPPLEMENTARY INFORMATION:

Issued: August 31, 1982.

In the matter of High-Cost Gas Produced From Tight Formations; Docket No. RM79–76–125, (Oklahoma-3); proposed rulemaking by Director, OPPR.

I. Background

On June 30, 1982, the Oklahoma Corporation Commission (Oklahoma) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Upper and Lower Cherokee (Red Fork) formations located in portions of Custer, Washita, Beckham, and Roger Mills Counties, Oklahoma, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Oklahoma's recommendation that the Upper and Lower Cherokee (Red Fork) formations be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with Oklahoma's recommendation. Oklahoma's recommendation and supporting data are on file with the Commission and are available for public inspection.

On July 26, 1982, the Commission received a letter from Mr. Bradford G. Keithley, representing the Oklahoma Fertilizer Manufacturers' Association (OFMA), certain members of which intervened at Oklahoma's hearings concerning the subject tight formation. OFMA expresses concern with regard to what it feels are deficiencies in the information supplied to the Commission and indicates that it will request formal intervention in this proceeding after the issuance of this Notice of Proposed Rulemaking. OFMA cites the following as deficiencies in data thus far submitted by Oklahoma:

1. The list of wells submitted in Oklahoma's recommendation purporting to locate all wells which are currently producing gas from the subject formation is substantially incomplete.

2. The "average top of the productive interval" was used, instead of the shallower actual top of the recommended formation for purposes of determining whether the formation meets the maximum allowable production rate under § 271.703(c)(2)(i)(B), and therefore, the maximum allowable production rate that was used was improperly high.

3. The source data for the "transient flow" or "Pre-Frac" analyses used to determine the formation permeability and stabilized flow rate were not submitted to the Commission with the recommendation nor independently examined by Oklahoma. OFMA asserts that the source data may show that certain assumptions made by the applicant in its analyses are invalid, and therefore, the validity of the conclusions are suspect.

Additionally, OFMA refers to a study recently published by the Society of Petroleum Engineers (Hickey, Brown, and Crittenden, "The Comparative Effectiveness of Propping Agents in the Red Fork Formation of the Anadarko Basin," SPE PREPRINT 10132 at 2 (1981)). OFMA states that this study concludes that the horizontal permeability obtained from core analyses of wells completed in the formation recommended by Oklahoma is 0.1 to 5 millidarcies with occasional streaks of higher permeability. OFMA states further that the study provides evidence that the production rates before and after stimulation are considerably higher than those on which Oklahoma has based its recommendation. Interested persons are invited to comment on the matters raised by the OFMA.

II. Description of Recommendation

The area proposed for designation as a tight formation is located in far west central Oklahoma. The specific area is: Township 11 North, Ranges 19 through 23 West, Township 12 North, Ranges 19 through 25 West, Township 13 North, Ranges 19 through 26 West, Township 14 North, Ranges 19 through 26 West, and Township 15 North, Ranges 25 through 26 West in portions of Beckham, Roger Mills, Custer, and Washita Counties, Oklahoma.

The Upper and Lower Cherokee (Red Fork) formations represent the middle and lower Des Moines Series of the Pennsylvania System in western Oklahoma. The Upper Cherokee is overlain by the Marmaton Group of the Des Moines Series. The Lower Cherokee, or Red Fork as it is sometimes called, is distinguishable on well logs by a conductivity and resistivity break and is underlain by the Atoka Series.

Average thickness of the Cherokee Group in the recommended area ranges from 1,650 to 1,750 feet in the northwest to the thickest in the central region of 2,400 feet and thinning to the east and northeast to 1,850 and 1,375 feet, respectively. Drilling depth to the top of the Cherokee ranges from approximately 11,100 to 11,500 feet in the northwest, 12,600 to 12,700 feet in the south central and southeast, and 11,500 to 11,700 feet in the north and northeast. Generally, the Cherokee Group consists of shale and siltstone (60–70 percent), sandstone (20–30 percent) and limestone/dolomite (5–10 percent). Individual sand bodies are locally developed as thick as 120 feet but the average is approximately 10 to 20 feet.

III. Discussion of Recommendation

Oklahoma claims in its submission that evidence gathered through information and testimony presented at public hearings held by Oklahoma on October 27 and December 15, 1981, on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Oklahoma further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Oklahoma that the Upper and Lower Cherokee (Red Fork) formations, as described and delineated in Oklahoma's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views, or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 15, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–125 (Oklahoma–3), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that he wishes to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than September 15, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432.)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Oklahoma's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703 is amended by adding new paragraph (d)(130) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(130) *Upper and Lower Cherokee (Red Fork) formations in Oklahoma.* RM79–76–125 (Oklahoma–3).

(i) *Delineation of formation.* The Upper and Lower Cherokee (Red Fork) formations are located in far west central Oklahoma. The specific area is: Township 11 North, Ranges 19 through 23 West, Township 12 North, Ranges 19 through 25 West, Township 13 North, Ranges 19 through 26 West, Township 14 North, Ranges 19 through 26 West, and Township 15 North, Ranges 25 through 26 West in portions of Beckham, Roger Mills, Custer, and Washita Counties, Oklahoma.

(ii) *Depth.* The Upper and Lower Cherokee (Red Fork) formations represent the middle and lower Des Moines Series of the Pennsylvanian System in western Oklahoma. These formations are overlain by the Marmaton Group of the Des Moines Series and underlain by the Atoka Series. Drilling depth to the top of the Cherokee ranges from approximately 11,100 to 11,500 feet in the northwest, 12,600 to 12,700 feet in the south central and southeast, and 11,500 to 11,700 feet in the north and northeast.

[FR Doc. 82–24368 Filed 9–2–82; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 148

[Docket No. 82N–0261]

Quick Frozen Peaches; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is offering to interested persons an opportunity to review the Recommended International Standard for Quick Frozen Peaches (Codex standard) developed by the Codex Alimentarius Commission and to comment on the desirability and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance. If the comments received do not support the need for a U.S. standard for the food, FDA will not propose a standard.

DATE: Comments by November 2, 1982.

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

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

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. The program has developed a large number of Codex standards, among which is that for quick frozen peaches.

As a member of the Codex Alimentarius Commission, the United States is under treaty obligation to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country that concludes that it will not accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies, it is necessary either to establish a standard under the authority of section 401 of the act (21 U.S.C. 341), or to revise an existing standard to incorporate the provisions within the U.S. standard. At present, there is no U.S. standard for quick frozen peaches.

Under the Procedure prescribed in § 130.6(b)(3) (21 CFR 130.6(b)(3)), FDA is providing an opportunity for review and informal comment (1) on the need for, and desirability of, a standard for this food, (2) on the specific provisions of the Codex standard and additional or different requirements that should be included in a U.S. standard, if established, and (3) on any other pertinent points.

FDA advises that, in keeping with the current policy to limit the number of new regulations, if the comments received do not support the need for a U.S. standard for this food, no U.S. standard will be proposed. If this decision is reached, FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirement of the Codex standard may move freely in interstate commerce in this country providing it complies with applicable U.S. laws and regulations.

Owing to the large number of countries, often with diverse food regulations, that are associated with Codex, certain provisions found in Codex standards may not be in keeping with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, limits on contaminants, certain basic labeling requirements, and other factors. These factors are not considered a part of food standards under section 401 of the act. Rather, they are dealt with under other sections of the act and are not included in a proposed U.S. standard.

In addition, the Codex standard for quick frozen peaches specifies analytical methods by which

compliance with certain provisions is to be determined. As stated in 21 CFR 2.19, FDA uses the methods published in the latest edition of "Official Methods of Analysis of the Association of Official Analytical Chemists," when these are available, in preference to other methods. FDA will adhere to this policy in any U.S. standard proposed under this notice.

Under § 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, the academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

List of Subjects in 21 CFR Part 148

Food standards, Frozen fruits.

The Codex standard under consideration is as follows:

Recommended International Standard for Quick Frozen Peaches

1. *Scope.* This standard shall apply to quick frozen peaches of the species *Prunus persica* L. as defined below and offered for direct consumption without further processing, except repacking, if required. It does not apply to the product when indicated as intended for further processing or for other industrial purposes.

2. *Description.*

2.1 *Product Definition.* Quick frozen peaches is the product prepared from fresh, sound, properly ripened fruit conforming to the characteristics of *Prunus persica* L., but excluding nectarine varieties, which fruit is packed with or without a dry sugar or a syrup and is packaged.

2.2 *Process Definition.* Quick frozen peaches is the product subjected to a freezing process in appropriate equipment and complying with the conditions laid down hereafter. This freezing operation shall be carried out in such a way that the range of temperature of maximum crystallization is passed quickly. The quick freezing process shall not be regarded as complete unless and until the product temperature has reached −18°C (0°F) at the thermal centre after thermal stabilization. The recognized practice of repacking quick frozen products under controlled conditions is permitted.

2.3 *Handling Practice.* The product shall be handled under such conditions as will maintain the quality during transportation, storage and distribution up to and including the time of final sale. It is recommended that during storage, transportation, distribution and retail, the product be handled in accordance with the provisions in the *Recommended International Code of Practice for the Processing and Handling of Quick Frozen Foods* (CAC/RCP 8–1976).

2.4 *Presentation.*

2.4.1 *Varietal Type.* Peaches of distinct varietal types shall be designated:

"Freestone"—where the pit separates readily from the flesh; or

"Clingstone"—where the pit adheres to the flesh.

2.4.2 *Colour type.* Peaches of distinct varietal differences shall be designated according to the colour of the ripe flesh.

(a) *White*—varietal types in which the predominant colour ranges from white to yellow-white;

(b) *Yellow*—varietal types in which the predominant colour ranges from pale yellow to light orange;

(c) *Red*—varietal types in which the colour ranges from orange red to red with more or less pronounced variegated red colouring other than that associated with the pit cavity;

(d) *Green*—varietal types in which the predominant colour is light green but which are fully mature and properly ripened.

2.4.3 *Style.* Quick frozen peaches shall be presented in the following styles:

(a) *Whole*—unpitted whole peaches;

(b) *Halves*—pitted and cut into two approximately equal parts;

(c) *Quarters*—pitted and cut into four approximately equal parts following the longitudinal axis;

(d) *Sliced*—pitted and cut into wedge shaped sectors of approximately equal size;

(e) *Pieces*—(regular or irregular)—pitted and comprising regular or irregular shapes and sizes;

(f) *Diced*—pitted and cut into cube-like parts having a maximum size of 15 mm long on one edge.

2.4.4 *Other Styles.* Any other presentation of the product shall be permitted provided that it:

(a) is sufficiently distinctive from other form of presentation laid down in this standand;

(b) meets all other requirements of this standard;

(c) is adequately described on the label to avoid confusing or misleading the consumer.

3. *Essential Composition and Quality Factors.*

3.1 *Optional Ingredients.* Sugars (sucrose, invert sugar, invert sugar syrup, dextrose, fructose, glucose syrup, dried glucose syrup).

3.2 *Composition.*

3.2.1 Peaches prepared with dry sugars. The total soluble solids content of the liquid extracted from the thawed, cominuted sample shall not be more than 35 percent m/m nor less than 18 percent m/m, as determined by refractometer at 20°C.

3.2.2 *Peaches prepared with syrup.* The amount of syrup used shall be no more than that required to cover the peaches and fill the spaces between them. The total soluble solids content of the liquid extracted from the thawed, comminuted sample shall be not more than 30% m/m nor less than 15% m/m, as determined by refractometer at 20°C.

3.2.3. *Definition of "Defective" for Composition.* Any sample unit that falls outside the limits for the soluble solids range specified in 3.2.1 and 3.2.2 shall be regarded as a "defective" provided it does not exceed the limits of the range by more than 5% m/m soluble solids.

3.2.4 *Lot Acceptance for Composition.* A lot is considered acceptable for compositional criteria when the number of "defectives" as defined in 3.2.3 does not exceed the acceptance number (c) for the appropriate sample size of the Sampling Plans for Prepackaged Foods (AQL–6.5) (Ref. No. CAC/RM 42–1969).

3.3 *Quality Factors.*

3.3.1 *General Requirements.* Quick frozen peaches shall be:

(a) Clean and practically free from foreign material;

(b) Free from foreign flavour and odour;

(c) Of similar varietal characteristics;

(d) Of good, reasonably uniform colour characteristic of the varietal type;

and with respect to visual or other defects subject to a tolerance, shall be:

(e) Practically free from dark discolouration or green areas (except for green in green types);

(f) Practically free from blemished units;

(g) Practically free from stalks (stems), or portions thereof, or other extraneous vegetable matter (EVM);

(h) Practically intact units for the style and may be materially altered in shape due to excess trimming or mechanical damage;

(i) Practically free from fibrous units;

(j) Reasonably free from overripe, mushy or disintegrated fruit;

(k) Reasonably free from peel;

(l) Free from whole pits (stones) except in whole style;

(m) Practically free from pit fragments.

3.3.2 *Definition of Visual Defects.*

(a) *Discolouration*—discolouration due to oxidation or bruising and which materially detracts from the appearance of the product;

(b) *Blemish*—units affected by insect injury or scab pathological damage or other similar means;

(c) *Stalks (stems)*—the immediate stalk which attaches the peach to the branch of the peach tree;

(d) *Extraneous Vegetable Matter (EVM)*—harmless vegetable material such as pieces of leaf;

(e) *Excess trim and mechanical damage*—units gouged or severely trimmed such that the apparent appearance and shape of the unit is materially altered;

(f) *Fibrous units*—units with tough fibres that are objectionable when eaten;

(g) *Overripe or mushy*—units that are excessively soft or disintegrated to the extent that they have lost their normal shape;

(h) *Pit fragments*—pieces of pit which are hard and sharp and are at least 3 mm in any dimension.

3.3.3 *Standard sample sizes.* The sample size for segregating, classifying and enumerating visual defects is as follows:

Style	Standard sample size
Whole	20 units (whole fruits).
Halved and Quartered	30 units (halves and quarters).
Sliced, Diced, Pieces	300 grammes.

The above sample units are made up of drained fruit as determined in Section 8.4.

3.3.4 Tolerances for Defects.

TABLE I.—WHOLE STYLE

[20 units]

Defect	Unit of measurement	Defect categories			
		Minor	Major	Serious	Total
(a) Discolouration or green.	Each 4 cm^2	1			
(b) Blemish	Each 0.5 cm^2 to 1 cm^2	1			
	>1 cm^2		2		
	Very dark, penetrating the flesh.			4	
(c) Stalks (stems), EVM.	Each piece		2		
(d) Excess trim and mechanical damage.	Each unit		2		
(e) Fibrous unit.	Each unit		2		
(f) Overripe, mushy.	Each unit		2		
(g) Feel	Each 1 cm^2	1			
Total allowable points.		25	8	4	25

TABLE II.—HALVED AND QUARTERED STYLES

[30 units]

Defect	Unit of measurement	Defect categories			
		Minor	Major	Serious	Total
(a) Discolouration or green.	Each 4 cm^2	1			
(b) Blemish	Each 0.5 cm^2 to 1 cm^2	1			
	>1 cm^2		2		
	Very dark, penetrating the flesh.			4	
(c) Stalks (stems), EVM.	Each piece		2		
(d) Excess trim and mechanical damage.	Each unit		2		
(e) Overripe, mushy.	Each unit	1			
(f) Fibrous units.	Each unit		2		
(g) Peel	Each 1 cm^2	1			
(h) Pit fragments.	Each piece		2		
Total allowable points.		25	8	4	25

(i) Whole pits (stones) 1 per 3 kgs.

TABLE III.—SLICED, DICED, PIECES STYLES

[300g drained fruit]

Defect	Unit of measurement	Defect categories			
		Minor	Major	Serious	Total
(a) Discolouration or green.	Each 4 cm^2	1			
(b) Blemish	Up to 1 cm^2	1			
	>1 cm^2		2		
	Very dark, penetrating the flesh.			4	
(c) Stalks (stems), EVM.	Each piece		2		
(d) Excess trim.	Each unit	1			
(e) Overripe, mushy.	Each 5 g	1			
(f) Fibrous	Each unit		2		
(g) Peel	Each cm^2	1			
(h) Pit fragments.	Each piece		2		
Total allowable points.		25	6	4	25

(i) Whole pits (stones), 1 per 3 kgs.

3.3.5 *Definition of "defective" for Quality Factors.* Any sample unit taken in accordance with the Sampling Plans for Prepackaged Foods, and which is adjusted to a standard sample unit size for applying the tolerances relating to Visual Defects, shall be regarded as "defective" for the respective characteristics, as follows:

(a) any sample unit that fails to meet the general requirements of 3.3.1;

(b) any sample unit that fails the Total Allowable Points for Defect categories Minor, Major or Serious; or which fails the Total Allowable Points for the combined *Total* of the respective defect categories (3.3.4).

3.3.6 *Lot acceptance for Quality Factors.* A lot is considered acceptable when the number of "defectives" as defined in paragraph 3.3.5 does not exceed the acceptance number (c) for the appropriate sample size as specified in the Sampling Plans for Prepackaged Foods (AQL-6.5) (Ref. No. CAC/RM 42-1969), provided that, with respect to all styles except "whole", the number of whole pits (stones) does not exceed the tolerance on a sample average basis.

4. *Food Additives.*

	Maximum level
4.1 Ascorbic acid	750 mg/kg.
4.2 Citric acid	Limited by good manufacturing practice.

5. *Hygiene.* It is recommended that the product covered by the provisions of this standard be prepared in accordance with the General Principles of Food Hygiene (Ref. No. CAC/RCP 1-1969) recommended by the Codex Alimentarius Commission.

6. *Labelling.* In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. No. CAC/RS 1-1969) the following specific provisions apply:

6.1 *The name of the Food.*

6.1.1 The name of the product as declared on the label shall include the designation "peaches".

6.1.2 In addition, there shall appear on the label in conjunction with or in close proximity to the word "peaches":

(a) The style, as appropriate: "whole", "halves", "quarters", "slices", "pieces" or "diced";

(b) The packing medium: "with (name of the sweetener and whether as such or as the syrup)".

6.1.3 If the product is produced in accordance with subsection 2.4.4, the label shall contain in close proximity to the word "peaches" such additional words or phrases that will avoid misleading or confusing the consumer.

6.1.4 Peaches of distinct varietal types shall be designated: "freestone" or "clingstone", as appropriate (see sub-section 2.4.1).

6.1.5 In addition, there shall appear on the label the words "quick frozen" except that the term "frozen" [1] may be applied in countries where this term is customarily used for describing the product processed in accordance with sub-section 2.2 of this standard.

6.1.6 The colour type of the flesh of the peaches shall be declared either by illustration or by nomenclature.

6.2 *List of Ingredients.* A complete list of ingredients shall be declared in descending order of proportion, in accordance with subsection 3.2(c) and (d) of the General Standard for the Labelling of Prepackaged Foods.

6.2.1 If ascorbic acid is added to preserve colour, its presence shall be declared in the list of ingredients or elsewhere on the label in this manner: "Ascorbic acid added as an antioxidant".

6.3 *Net Contents.* The net contents shall be declared by weight in either the metric system ("Système international" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

6.4 *The Name and Address.* The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the food shall be declared.

6.5 *Country of Origin.* The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.6 *Lot Identification.* Each container shall be embossed or otherwise permanently marked, in code or in clear, to identify the producing factory and the lot.

6.7 *Additional Requirements.* The packages shall bear clear directions for keeping from the time they are purchased from the retailer to the time of their use, as well as directions for thawing.

6.8 *Bulk Packs.* In the case of quick frozen peaches in bulk, the information required in 6.1 and 6.6 shall either be placed on the container or be given in accompanying documents, except that the name of the food accompanied by the words "quick frozen"

[1] "frozen": This term is used as an alternative to "quick frozen" in some English speaking countries.

(the term "frozen" may be applied in countries where this term is customarily used for describing the product processed in accordance with subsection 2.2 of this standard) and the name and address of the manufacturer or packer shall appear on the container.

7. *Packaging.* Packaging used for quick frozen peaches shall:

(a) Protect the organoleptic and quality characteristics of the product;

(b) Protect the product from bacteriological and other contamination;

(c) Protect the product from dehydration and, where appropriate, leakage as far as technologically practicable;

(d) Not pass on to the product any odour, taste, colour or other foreign characteristics.

8. *Methods of Examination, Analysis and Sampling.* The methods of examination, analysis and sampling described hereunder are international referee methods.

8.1 *Sampling.* Sampling shall be carried out in accordance with the *Sampling Plans for Prepackaged Foods* (AQL-6.5) (Ref. No. CAC/RM 42-1969).[1]

8.2 *Thawing Procedure.* According to the FAO/WHO Codex Alimentarius Standard Procedure for Thawing of Quick Frozen Fruits and Vegetables, CAC/RM 32-1970.

8.3 *Determination of Net Weight.* According to the FAO/WHO Codex Alimentarius Method: Net Weight Determination of Frozen Fruits and Vegetables, CAC/RM 34-1970, FAO/WHO Codex Alimentarius Methods of Analysis for Quick Frozen Fruits and Vegetables (First Series).

8.4 *Determination of Drained Fruit.* Thaw the product until it is practically free from ice crystals and then drain on a screen—3 mesh/cm (8 mesh/inch)—for two minutes. The weight of product retained by the screen is "drained fruit". When dry sugar(s) is added to the peaches it shall be removed with a gentle spray of water before draining.

8.5 *Determination of Total Soluble Solids Content.* According to the FAO/WHO Codex Alimentarius Method: Determination of Total Soluble Solids in Frozen Fruits, CAC/RM 43-1971, FAO/WHO Codex Alimentarius Methods of Analysis for Quick Frozen Fruits and Vegetables, (First Series).

Results are expressed as % sucrose.

Interested persons may, on or before November 2, 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. Each comment should identify the title of the Codex standard and 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.

Executive Order 12291 does not apply to regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557). Food standards promulgated under 21 U.S.C. 341 and 371(e) fall under this exemption. However, any comments submitted in support of establishing a U.S. standard for this food should be supported by appropriate information and data regarding impact on small businesses consistent with the requirements of the Regulatory Flexibility Act (Pub. L. 96-354).

Dated: August 23, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-23951 Filed 9-2-82; 8:45 am]

BILLING CODE 4160-01-M

[1] Pending consideration by the Codex Committee on Methods of Analysis and Sampling with a view to endorsement.

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21 CFR Part 148

[Docket No. 82N-0262]

Quick Frozen Raspberries; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard

AGENCY: Food and Drug Administration.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is offering to interested persons an opportunity to review the Recommended International standard for Quick Frozen Raspberries (Codex standard) developed by the Codex Alimentarius Commission and to comment on the desirability and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance. If the comments received do not support the need for a U.S. standard for the food, FDA will not propose a standard.

DATE: Comments by November 2, 1982.

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

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

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. The program has developed a large number of Codex standards, among which is that for quick frozen raspberries.

As a member of the Codex Alimentarius Commission, the United States is under treaty obligation to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country that concludes that it will not accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies, it is necessary either to establish a standard under the authority of section 401 of the act (21 U.S.C. 341), or to revise an existing standard to incorporate the provisions within the U.S. standard. At present, there is no U.S. standard for quick frozen raspberries.

Under the procedure prescribed in § 130.6(b)(3) (21 CFR 130.6(b)(3)), FDA is providing an opportunity for review and informal comment (1) on the need for, and desirability of, a standard for this food, (2) on the specific provisions of the Codex standard and additional or different requirements that should be included in a U.S. standard, if established, and (3) on any other pertinent points.

FDA advises that, in keeping with the current policy to limit the number of new regulations, if the comments received do not support the need for a U.S. standard for this food, no U.S. standard will be proposed. If this decision is reached, FDA will inform the Codex Alimentarius Commission that any imported food that complies with the requirement of the Codex standard may move freely in interstate commerce in this country providing it complies with applicable U.S. laws and regulations.

Owing to the large number of countries, often with diverse food regulations, that are associated with Codex, certain provisions found in Codex standards may not be in keeping

with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, limits on contaminants, certain basic labeling requirements, and other factors. These factors are not considered a part of food standards under section 401 of the act. Rather, they are dealt with under other sections of the act and are not included in a proposed U.S. standard.

In addition, the Codex standard for quick frozen raspberries specifies analytical methods by which compliance with certain provisions is to be determined. As stated in 21 CFR 2.19, FDA uses the methods published in the latest edition of "Official Methods of Analysis of the Association of Official Analytical Chemists," when these are available, in preference to other methods. FDA will adhere to this policy in any U.S. standard proposed under this notice.

Under § 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, the academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

List of Subject in 21 CFR Part 148

Food standards, Frozen fruits.

The Codex standard under consideration is as follows:

CAC/RS 69–1974

Recommended International Standard for Quick Frozen Raspberries

1. *Scope.* This standard shall apply to quick frozen raspberries of the species *Rubus idaeus* L. as defined below and offered for direct consumption without further processing, except for repacking, if required. It does not apply to the product when indicated as intended for further processing or for other industrial purposes.

2. *Description.*

2.1 *Product Definition.* Quick frozen raspberries are the product prepared from fresh, clean, sound, ripe and stemmed raspberries of firm texture conforming to the characteristics of *Rubus idaeus* L. (red, yellow or black varieties).

2.2 *Process Definition.* Quick frozen raspberries is the product subjected to a freezing process in appropriate equipment and complying with the conditions laid down hereafter. This freezing operation shall be carried out in such a way that the range of temperature of maximum crystallization is passed quickly. The quick freezing process shall not be regarded as complete unless and until the product temperature has reached −18°C (0°F) at the thermal centre after thermal stabilization. The recognized practice of repacking quick frozen products under controlled conditions is permitted.

2.3 *Handling Practice.* The product shall be handled under such conditions as will maintain the quality during transportation, storage and distribution up to and including the time of final sale. It is recommended that during storage, transportation, distribution and retail, the product be handled in accordance with the provisions in the *Recommended International Code of Practice for the Processing and Handling of Quick Frozen Foods* (CAC/RCP 8–1976).

2.4 *Presentation.*

Style. Quick frozen raspberries may be presented as free-flowing (i.e. as individual berries not adhering to one another) or non free-flowing (i.e. as a solid block).

3. *Essential composition and quality factors.*

3.1 *Optional Ingredients.* Sugars (sucrose, invert sugar, invert sugar syrup, dextrose, fructose, glucose syrup, dried glucose syrup).

3.2 *Composition.*

3.2.1 *Raspberries prepared with dry sugars.* The total soluble solids content of the liquid extracted from the thawed comminuted sample shall be not more than 35% m/m nor less than 18% m/m expressed as sucrose, as determined by refractometer at 20°C.

3.2.1. *Raspberries prepared with syrup.* The amount of syrup used shall be not more than that required to cover the berries and fill the spaces between them. The total soluble solids content of the liquid extracted from the thawed, comminuted sample shall be not more than 30% m/m nor less than 15% m/m expressed as sucrose, as determined by refractometer at 20°C.

3.2.3 *Definition of "Defective" for Composition.* Any sample unit that falls outside the limits for the soluble solids range specified in 3.2.1 and 3.2.2 shall be regarded as a "defective" provided it does not exceed the limits of the range by more than 5% soluble solids.

3.2.4 *Lot Acceptance for Composition.* A lot is considered acceptable for Compositional Criteria when the number of "defectives" does not exceed the acceptance number (c) for the appropriate sample size of the Sampling Plans for Prepackaged Foods (AQL–6.5) (Ref. No. CAC/RM 42–1969).

3.3 *Quality Factors.*

3.3.1 *General Requirements.* Quick frozen raspberries shall be:

(a) Of good, reasonably uniform colour, characteristic of the variety;

(b) Clean, sound and practically free from foreign matter;

(c) Free from foreign flavour and odour; and with respect to visual or other defects with a tolerance shall be:

(d) Practically free from sand and grit;

(e) When presented as free-flowing, practically free from berries adhering one to another and which cannot be easily separated when in the frozen state;

(f) Reasonably free from uncoloured berries;

(g) Practically free from completely uncoloured berries;

(h) Reasonably free from stalks (cap stems);

(i) Practically free from extraneous vegetable matter;

(j) Reasonably free from damage or blemish due to pathological injury or pests;

(k) Normally developed;

(l) Of similar varietal characteristics;

(m) Reasonably free from disintegrated berries or berries not intact.

3.3.2 *Analytical Characteristics.* Mineral impurities—not more than 0.05% m/m on a whole product basis (berries and packing medium, if any).

3.3.3 *Free-flowing Characteristics.*

(a) When presented as "free-flowing" a tolerance of 10% m/m shall be allowed for berries which adhere to one another and not easily separated in the frozen state.

(b) The sample unit for the determination of the requirement for "free-flowing" is the entire contents of the container or as large a quantity as practicable.

3.3.4 *Definition of Visual Defects.*

(a) *Partially uncoloured berries*—25 to 75% of the surface area without the colour characteristic of the variety;

(b) *Completely uncoloured berries*—75% or more of the surface area without the colour characteristic of the variety;

(c) *Stalks (cap stems)*—a stalk or portions of stalk, either loose or attached to the berry, and greater than 3 mm in length;

(d) *Extraneous vegetable matter* (EVM)—calyces or portion of calyces, leaves or other harmless extraneous vegetable material;

(e) *Blemished*—any damage whether due to pathological injury or pests which materially affect the appearance of the berry;

Minor blemishes are those that do not exceed the area of a circle having a diameter of 5 mm.

Major blemishes are those that exceed the area of a circle having a diameter of 5 mm.

(f) *Not normally developed*—berries containing shrivelled parts in the fruit fresh (drupelets);

(g) *Dissimilar varieties*—berries that are significantly different in colour or shape due to varietal characteristics;

(h) *Disintegrated or not intact*—berries in which more than 25% of the berry is missing or berries which are crushed, broken or smashed into small pieces or flattened into a pulpy mass.

3.3.5 *Standard Sample Unit.* The sample unit for segregation and evaluating visual defects shall be 300 grammes of drained berry ingredient as determined in section 8.4.

3.3.6 *Tolerances for Visual Defects.* Based on standard sample unit size of 300 grammes, visual defects shall be assigned points in accordance with Table I. The maximum number of defects permitted is the "Total Allowable Point" rating indicated for the respective categories "minor", "major", "serious" and "total".

TABLE I

[Sample unit—300 grammes drained berries]

Defect	Unit of measurement	Defect categories			
		Minor	Major	Serious	Total
(a) Partially uncoloured berries.	Each berry	1			
(b) Completely uncoloured berries.	Each berry			4	
(c) Stalks (cap stems).	Each piece		2		
(d) EVM	Each cm ²		2		
(e) Blemished					
Minor	Each berry	1			
Major	Each berry		2		
(f) Not normally developed.	Each berry	1			
(g) Dissimilar varieties.	Each berry		2		
Total allowable points.	15	10	4	20	

(h) Disintegrated or not intact, Maximum of 35% m/m.

3.3.7 *Definition of "defective" for Quality Criteria.* Any sample unit taken in accordance with the Sampling Plans for Prepackaged Foods (AQL–6.5) (Ref. No. CAC/RM 42–1969) shall be regarded as a "defective" for the respective characteristics as follows:

(a) That exceeds the tolerance for mineral impurities (3.3.2);

(b) That exceeds the tolerance for "free flowing" (3.3.3);

(c) That exceeds the Total Allowable Points" for "Visual Defects" in *any one or more* of the categories in Table I (3.3.6);

(d) That exceeds the tolerance for "Disintegrated" in Table I (3.3.6).

3.3.8 *Lot Acceptance for Quality Criteria.* A lot is considered acceptable for Quality Criteria when the number of "defectives", as defined in paragraph 3.3.7, does not exceed the acceptance number (c) for the appropriate sample size of the Sampling Plans for Prepackaged Foods (AQL–6.5), (Ref. No. CAC/RM 42–1969). In applying the lot acceptance procedure, a "defective" for "free-flowing" is treated individually and in addition to the allowance for other product characteristics.

4. *Food Additives.* None permitted.

5. *Hygiene.* It is recommended that the product covered by the provisions of this standard be prepared in accordance with the General Principles of Food Hygiene (Ref. No. CAC/RCP 1–1969) recommended by the Codex Alimentarius Commission.

6. *Labeling.* In addition to Sections 1, 2, 4 and 6 of the *General Standard for the Labelling of Prepackaged Foods* (Ref. No. CAC/RS 1–1969), the following specific provisions apply:

6.1 *The Name of the Food.*

6.1.1 The name of the food as declared on the label shall include "raspberries". The words "quick frozen" shall also appear on the label, except that the term "frozen"[1] may be applied in countries where this term is customarily used for describing the product processed in accordance with sub-section 2.2 of the standard.

6.1.2 In addition, there shall appear on the label in conjunction with or in close proximity to the word "raspberries": (a) a reference to the colour for varieties other than the red variety; (b) the packing medium: "with (name of sweetener and whether as such or as the syrup)".

6.2 *List of Ingredients.* A complete list of ingredients shall be declared, in descending order of proportion in accordance with subsection 3.2(c) of the *General Standard for the Labelling of Prepackaged Foods* (1969).

6.3 *Net Contents.* The net contents shall be declared by weight in either the metric system ("Système international" units) or avoirdupois or both systems of measurement as required by the country in which the food is sold.

6.4 *Name and Address.* The name and address of the manufacturer, Packer, distributor, importer, exporter or vendor of the product shall be declared.

6.5 *Country of Origin.* The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.6 *Lot Identification.* Each container shall be embossed or otherwise permanently marked, in code or in clear, to identify the producing factory and the lot.

6.7 *Additional Requirements.* The packages shall bear clear directions for keeping from the time they are purchased from the retailer to the time of their use, as will as directions for thawing.

6.8 *Bulk Packs.* In the case of quick frozen raspberries in bulk, the information required in 6.1 to 6.7 shall either be placed on the container or be given in accompanying documents, except that the name of the food accompanied by the words "quick frozen" (the term "frozen" may be used in accordance with sub-section 6.1.1 of this standard) and the name and address of the manufacturer or packer shall appear on the container.

7. *Packaging.* Packaging used for quick frozen raspberries shall:

(a) Protect the organoleptic and other quality characteristics of the product;

(b) Protect the product against microbiological and other contamination;

(c) Protect the product, as far as practicable, against dehydration, heat accumulation by radiation, and, where appropriate, leakage;

(d) Not pass on to the product any odour, taste, colour or other foreign characteristics, throughout the processing (where applicable) and distribution of the product up to the time of final sale.

8. *Methods of Examination, Analysis and Sampling.* The methods of examination, analysis and sampling described hereunder are international referee methods.

8.1 *Sampling.* Sampling shall be carried out in accordance with the *Sampling Plans for Prepackaged Foods* (AQL–6.5) (Ref. No. CAC/RM 42–1969).[2]

8.2 *Thawing Procedure.* According to the FAO/WHO Codex Alimentarius Method: FAO/WHO Codex Alimentarius Standard Procedure for Thawing of Quick Frozen Fruits and Vegetables, CAC/RM 32–1970.

8.3 *Determination of Net Weight.* According to the FAO/WHO Codex Alimentarius Method: Net Weight Determination of Frozen Fruits and Vegetables, CAC/RM 34–1970, FAO/WHO Codex Alimentarius Methods of Analysis for Quick Frozen Fruits & Vegetables, First Series.[1]

8.4 *Determination of Drained Berry Ingredient.*

(1) Thaw the product until the berries are practically free from ice crystals and can be separated without damage.

(2) Place the thawed product on a flat tray inclined to about 17° angle.

(3) Allow the syrup to drain to the lower end of the tray.

(4) Carefully remove the berries to another tared tray until 300 grammes are obtained to make up the standard sample unit required for the evaluation of defects.

(5) Add to the drained berry ingredient any stalks or extraneous vegetable matter that may be found in the syrup.

8.5 *Determination of Mineral Impurities.* According to the FAO/WHO Codex Alimentarius Method: Determination of Mineral Impurities in Quick Frozen Fruits and Vegetables, CAC/RM 54–1974, FAO/WHO Codex Alimentarius Methods of Analysis for Quick Frozen Fruits & Vegetables, First Series.

Results are expressed as % m/m on a whole product basis.

8.6 *Determination of Total Soluble Solids Content.* According to the FAO/WHO Codex Alimentarius Method: Determination of Total Soluble Solids in Frozen Fruits, CAC/RM 43–1971, FAO/WHO Codex Alimentarius Methods of Analysis for Quick Frozen Fruits & Vegetables, First Series.

Results are expressed as % sucrose.

Interested persons may, on or before November 2, 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. Each comment should identify the title of the Codex standard and 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.

Executive Order 12291 does not apply to regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557). Food standards promulgated under 21 U.S.C. 341 and 371(e) fall under this exemption. However, any comments submitted in support of establishing a U.S. standard for this food should be supported by appropriate information and data regarding impact on small businesses consistent with the

[1] "frozen": This term is used as an alternative to "quick frozen" in some English speaking countries.

[2] Pending consideration by the Codex Committee on Methods of Analysis and Sampling with a view to endorsement.

requirements of the Regulatory Flexibility Act (Pub. L. 96–354).

Dated: August 23, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–24071 Filed 9–2–82; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 158

[Docket No. 82N–0260]

Quick Frozen Spinach; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is offering to interested persons an opportunity to review the Recommended International Standard for Quick Frozen Spinach (Codex standard) developed by the Codex Alimentarius Commission and to comment on the desirability and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance. If the comments received do not support the need for a U.S. standard for the food, FDA will not propose a standard.

DATE: Comments by November 2, 1982.

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

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

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. The program has developed a large number of Codex standards, among which is that for quick frozen spinach.

As a member of the Codex Alimentarius Commission, the United States is under treaty obligation to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country that concludes that it will not accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies, it is necessary either to establish a standard under the authority of section 401 of the act (21 U.S.C. 341), or to revise an existing standard to incorporate the provisions within the U.S. standard. At present, there is no U.S. standard for quick frozen spinach.

Under the procedure prescribed in § 130.6(b)(3) (21 CFR 130.6(b)(3)), FDA is providing an opportunity for review and informal comment (1) on the need for, and desirability of, a standard for this food, (2) on the specific provisions of the Codex standard and additional or different requirements that should be included in a U.S. standard, if established, and (3) on any other pertinent points.

FDA advises that, in keeping with the current policy to limit the number of new regulations, if the comments received do not support the need for a U.S. standard for this food, no U.S. standard will be proposed. If this decision is reached, FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirement of the Codex standard may move freely in interstate commerce in this country providing it complies with applicable U.S. laws and regulations.

Owing to the large number of countries, often with diverse food regulations, that are associated with Codex, certain provisions found in Codex standards may not be in keeping with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, limits on contaminants, certain basic labeling requirements, and other factors. These factors are not considered a part of food standards under section 401 of the act. Rather, they are dealt with under other sections of the act and are not included in a proposed U.S. standard.

Under § 130.6(c) all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, the academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

List of Subjects in Part 158

Food standards, Frozen vegetables.

The Codex standard under consideration is as follows:

CAC/RS 77–1976

Recommended International Standard for Quick Frozen Spinach

1. *Scope.* This standard shall apply to quick frozen spinach of the species *Spinacia oleracea* L. as defined below and offered for direct consumption without further processing except for repacking, if required. It does not apply to the product when indicated as intended for further processing or for other industrial purposes.

2. *Description.*

2.1 *Product Definition.* Quick frozen spinach is the product prepared from fresh, clean, sound edible parts of the spinach plant conforming to the characteristics of the species *Spinacia oleracea* L., and which have been sorted, washed, sufficiently blanched to ensure adequate stability of colour and flavour during normal marketing cycles and properly drained.

2.2 *Process Definition.* Quick frozen spinach is the product subjected to a freezing process in appropriate equipment and complying with the conditions laid down hereafter. This freezing operation shall be carried out in such a way that the range of temperature of maximum crystallization is passed quickly. The quick freezing process shall not be regarded as complete unless and until the product temperature has reached −18° C (0° F) at the thermal centre after thermal stabilization. The recognized practice of repacking quick frozen products under controlled conditions is permitted.

2.3 *Handling Practice.* The product shall be handled under such conditions as will maintain the quality during transportation, storage and distribution up to and including the time of final sale. It is recommended that during storage, transportation, distribution and retail, the product be handled in accordance with the provisions in the Recommended International Code of Practice for the Processing and Handling of Quick Frozen Foods (CAC/RCP 8–1976).

2.4 *Presentation.*

2.4.1 *Style.*

(a) Whole Spinach—the intact spinach plant with root removed;

(b) Leaf Spinach—substantially whole leaves most of which are separated from the root crown;

(c) Cut-Leaf Spinach—parts of leaves of spinach generally larger than 20 mm in the smallest dimension;

(d) Chopped Spinach—parts of leaves of spinach cut into small pieces, generally less than 10 mm in the largest dimension, but not comminuted to a pulp or puree—i.e. pieces smaller than 3 mm in dimension;

(e) Pureed Spinach (Spinach Puree)—spinach finely divided or finely chopped or having passed through a sieve such that the leaf particles are less than 3 mm dimension.

2.4.2 *Other Styles.* Any other presentation of the product shall be permitted provided that it:

(a) Is sufficiently distinctive from other forms of presentation laid down in this standard;

(b) Meets all other requirements of this standard;

(c) Is adequately described on the label to avoid confusing or misleading the consumer.

3. *Essential Composition and Quality Factors.*

3.1 *Optional Ingredients.* Salt (Sodium chloride). Condiments, such as spices and herbs.

3.2 *Quality Factors.*

3.2.1 *General Requirements.* Quick frozen spinach shall:

(a) Have a reasonably uniform green colour characteristic of the variety;

(b) Be clean, sound and practically free from foreign matter;

(c) Be free from foreign flavour and odour, taking into consideration any added optional ingredients;

(d) Be practically free from fibrous material and for the styles of whole Leaf and Cut Leaf not materially disintegrated due to mechanical damage;

and with respect to visual defects or other defects subject to a tolerance, shall be:

(e) Practically free from sand and grit;

(f) Well drained and containing no excess water;

(g) Practically free from loose or detached leaves in *Whole* style only;

(h) Reasonably free from discoloured leaves or portions thereof;

(i) Reasonably free from flower stems (seed heads);

(j) Reasonably free from flower buds;

(k) Reasonably free from crown and portion thereof, except for *Whole* spinach;

(l) Practically free from root material;

(m) Reasonably free from extraneous vegetable material (EVM).

3.2.2 *Analytical Characteristics.*

(a) Mineral impurities such as sand, grit and silt shall be not more than 0.1% m/m, measured on the whole product basis;

(b) Salt-free dry matter—not less than 5.5% m/m.

3.2.3 *Definition of Visual Defects.*

(a) Loose leaves (Whole Style only)—leaves which are detached from the crown;

(b) Discolouration—discolouration of any kind on the leaves or stem portions and which materially detracts from the appearance of the product;

Minor—discolouration which is light in colour;

Major—discolouration which is dark in colour;

(c) Extraneous vegetable matter (EVM)—harmless vegetable material such as grass, weeds, straw, etc.;

Minor—EVM which is green and tender.

Major—EVM which is other than green or is coarse;

(d) Seed heads (flower stems)—the flower bearing portion of the spinach plant, which is longer than 25 mm;

(e) Flower buds—the separate flower buds detached from the seed head;

(f) Crowns (exclusive of Whole style)—the solid area of the spinach plant between the root and the attached leaf clusters;

(g) Root material—any portion of the root, either loose or attached to leaves.

3.2.4 *Standard Sample Size.*

The standard sample size for segregating and evaluating visual defects shall be as follows:

Style	Standard sample size (grammes)
Whole and Leaf	300
Cut leaf	300
Chopped	100
Pureed	100

3.2.5 *Method of Examination.* For separation and enumeration of visual defects the test sample (standard sample size) is placed in water in a deep tray, and the leaves or leaf portion separated one by one.

3.2.6 *Tolerances for Visual Defects.* For *tolerances* based on the standard sample sizes indicated in Section 3.2.4, visual defects shall be assigned points in accordance with the appropriate Table in this Section. The maximum number of defects permitted is the Total Allowable Points rating indicated for the respective categories Minor, Major and Serious or the Combined Total of the foregoing categories.

TABLE I.—WHOLE LEAF AND CUT LEAF STYLE

(Standard sample size 300 grammes)

Defect	Unit of measurement	Defect Categories			
		Minor	Major	Serious	Total
(a) Loose Leaves (Whole style only).	Each Leaf	1			
(b) Discolouration:	Each 4 cm^2				
Minor		1			
Major			2		
(c) EVM:	Each 5 cm				
Minor		1			
Major			2		
(d) Seed heads.	Each whole head.		2		
	Each portion	1			
(e) Crowns (exclusive of whole style).	Each whole crown.		2		
	Each part	1			
(f) Root material.	Each piece			4	
Total allowable points.		20	10	4	20

TABLE II.—CHOPPED STYLE

(Standard sample size 100 grammes)

Defect	Unit of measurement	Defect Categories		
		Minor	Major	Total
(a) Discolouration:				
Minor	Each cm^2	1		
Major			2	
(b) EVM:				
Minor	Each 1 cm	1		
Major			2	
(c) Flower Buds	Each 50 pieces	1		
(d) Crown Material.	Each piece		2	
(e) Root Material	Each peice		2	
Total allowable points.		20	10	20

TABLE III.—PUREED STYLE

(Standard sample size 100 grammes)

Defect	Allowance
Any dark praticle or flower bud.	Shall not affect the overall appearance of the product.

3.2.7 *Definition of "Defective" for Quality Factors.* Any sample unit taken in accordance with the Sampling Plans for Prepackaged Foods (AQL–6.5) (Ref. No. CAC/RM 42–1969), and which is adjusted to a standard sample size for applying the tolerances relating to "Visual Defects", shall be regarded as "defective" for the respective characteristics as follows:

(a) Any sample unit that fails to meet the requirements of 3.2.1 and the analytical requirements of Section 3.2.2;

(b) Any sample unit that fails the Total Allowable Points for Defect Categories, Minor, Major or Serious; or which fails the Total Allowable Points for the combined *Total* of the respective defect categories as given in Section 3.2.6.

3.2.8 *Lot Acceptance for Quality Factors.* A lot is considered acceptable when the number of "defectives" as defined in Section 3.2.7 does not exceed the acceptance number (c) for the appropriate sample size as specified in the "Sampling Plans for Prepackaged Foods" (AQL–6.5) (Ref. No. CAC/RM 42–1969). In applying the acceptance procedure each "defective" (subparagraph (a) or (b) of Section 3.2.7 is treated individually for the respective characteristics.

4. *Food Additives.* None permitted.

5. *Hygiene.* It is recommended that the product covered by the provisions of this standard be prepared in accordance with the *General Principles of Food Hygiene* (Ref. No. CAC/RCP 1–1969) recommended by the Codex Alimentarius Commission.

6. *Labelling.* In addition to Sections 1, 2, 4 and 6 of the *General Standard for the Labelling of Prepackaged Foods* (Ref. No. CAC/RS 1–1969) the following provisions apply:

6.1 *The Name of the Food.*

6.1.1 The name of the food as declared on the label shall include "whole spinach", "leaf spinach", "cut leaf spinach", "chopped spinach" or "spinach puree".

6.1.2 If the product is produced in accordance with Section 2.4.2, the label shall

contain in close proximity to the word "spinach" such additional words or phrases that will avoid misleading or confusing the consumer.

6.1.3 When any ingredient, other than salt, has been added which imparts to the food the distinctive flavour of the ingredient, the name of the food shall be accompanied by the term "with x" or "x flavoured", as appropriate.

6.1.4 The words "quick frozen" shall also appear on the label, except that the term "frozen"[1] may be applied in countries where this term is customarily used for describing the product processed in accordance with Section 2.2 of this standard.

6.2 *List of Ingredients.* A complete list of ingredients shall be declared, in descending order of proportion in accordance with Section 3.2(c) of the *General Standard for the Labelling of Prepackaged Foods* (Ref. No. CAC/RS 1–1969).

6.3 *Net Contents.* The net contents shall be declared by weight in either the metric system ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the food is sold.

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

6.5 *Country of Origin.* The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.6 *Lot Identification.* Each container shall be embossed or otherwise permanently marked, in code or in clear, to identify the producing factory and the lot.

6.7 *Additional Requirements.* The packages shall bear clear directions for keeping from the time they are purchased from the retailer to the time of their use, as well as directions for cooking.

6.8 *Bulk Packs.* In the case of quick frozen spinach in bulk, the information required in Sections 6.1 to 6.6 shall either be placed on the container or to be given in accompanying documents, except that the name of the food accompanied by the words "quick frozen" (the term "frozen" may be used in accordance with Section 6.1.4 of this standard) and the name and address of the manufacturer or packer shall appear on the container.

7. *Packaging.* Packaging used for quick frozen spinach shall:

(a) Protect the organoliptic and other quality characteristics of the product;

(b) Protect the product against microbiological and other contamination;

(c) Protect the product from dehydration and, where appropriate, leakage as far as technologically practicable;

(d) Not pass on to the product any odour, taste, colour or other foreign characteristics, throughout the processing (where applicable) and distribution of the product up to the time of final sale.

[1] "Frozen": this term is used as an alternative to "quick frozen" in some English speaking countries.

Interested persons may, on or before November 2, 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. Each comment should identify the title of the Codex standard and 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.

Executive Order 12291 does not apply to regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557). Food standards promulgated under 21 U.S.C. 341 and 371(e) fall under this exemption. However, any comments submitted in support of establishing a U.S. standard for this food should be supported by appropriate information and data regarding impact on small businesses consistent with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354).

Dated: August 23, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–24070 Filed 9–2–82; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 182

[Docket No. 80N–0196]

Japan Wax; Proposed Deletion From GRAS Status as an Indirect Human Food Ingredient

Correction

In FR Doc. 82–18443, on page 29965, in the issue of Friday, July 9, 1982, make a correction to the preamble item of "DATE" by changing "September 9, 1982" to "September 7, 1982".

BILLING CODE 1505–01–M

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21 CFR Part 182

[Docket No. 80N–0108]

Ethyl Acrylate and Methyl Acrylate; Proposed Removal From GRAS Status as Indirect Human Food Ingredients

Correction

In FR Doc. 82–18444, at page 29963, in the issue of Friday, July 9, 1982, on page 29965, in the middle column, last paragraph, line 2, correct "September 9, 1982" to read "September 7, 1982".

BILLING CODE 1505–01–M

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21 CFR Parts 182 and 184

[Docket No. 81N–0314]

Sulfiting Agents; Proposed Affirmation of GRAS Statics With Specific Limitations; Removal from GRAS Statics as Direct Human Food Ingredient

Correction

In FR Doc. 82–18442, at page 29956, in the issue of Friday, July 9, 1982, make the following corrections:

1. On page 29956, in the first column, under the preamble item "SUMMARY" line 11, after the word "human", insert the words, "food ingredients and to remove them from the list of substances that are".

2. On page 29958, the table is corrected in the "route" column by changing "I" to read "i", and "P" to read "p"

3. On page 29959, in the last column, last line in the column, correct "standard" to read "stranded".

BILLING CODE 1505–01–M

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21 CFR Part 333

[Docket No. 76N–0482]

Topical Antimicrobial Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

Correction

In FR Doc. 82–18541, at page 29986, in the issue of Friday, July 9, 1982, make the following corrections:

1. On page 29986, last column, third full paragraph, line 2, correct "1984" to read "1974".

2. On page 29993, first column, line 4, correct "trails" to read "trials".

3. On page 29995, first column, second full paragraph, fifth line from the end of the paragraph, correct "for" to read "from",

4. On page 29999, last column, § 333.150(c), line 3, "Warning": is corrected to read "Warnings".

5. On page 29999, last column, last paragraph, line 2, "September 17, 1982" is corrected to read "September 7, 1982".

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Energy Investment Credit for Qualified Intercity Buses; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the availability of the energy investment credit for qualified intercity buses. The Crude Oil Windfall Profit Tax Act of 1980 added qualified intercity buses to the list of energy property. The regulations would provide the public with the guidance needed to comply with the law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by November 2, 1982. The amendments are proposed to be effective for the period beginning on January 1, 1980, and ending December 31, 1985.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–79–80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Yerachmiel E. Weinstein of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (202–566–3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 48 (l) (16) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 222 (a) and (h) of the Crude Oil Windfall Profit Tax Act of 1980 (94 Stat. 261, 264–65) and are to be issued under the authority contained in Code section 38(b) (76 Stat. 963; 26 U.S.C. 38(b)), Code section 48(l)(16) (94 Stat. 264–65; 26 U.S.C. 48(l)(16)), Code section 381(c)(23) (76 Stat. 97; 26 U.S.C. 381(c)(23)), and Code section 7805 (68A Stat. 917; 26 U.S.C. 7805).

Eligible Taxpayers

Section 48(l)(16)(A)(i) allows the energy investment credit (energy credit) for qualified intercity buses (qualifying buses) only to common carriers. The definition of common carrier in these proposed regulations is taken from the Revised Interstate Commerce Commission Act. If the taxpayer is engaged wholly in intrastate commerce, section 48(l)(16)(A)(i) requires that the taxpayer be regulated by an appropriate State agency. In these proposed regulations, the standard for appropriateness is also taken from that Act.

The definition of intercity transportation refers to that Act's definition of commercial zones. Transportation not provided entirely within a commercial zone is intercity transportation.

Leasing

Under the proposed regulations, the energy credit will be allowed for leased qualifying buses. Eligibility for the energy credit is determined according to the lessee's use of the bus. If the bus qualifies in the hands of the lessee, the lessor may either take the energy credit itself or pass it through to the lessee under section 48(d).

Definition of Qualifying Bus

Section 48(l)(16)(B) sets forth the criteria for a qualifying bus. The manufacturers excise tax definition of an exempt bus is used. A minimum seating capacity and baggage storage capacity are set forth to distinguish intercity buses from local transit buses. See H.R. Rep. No. 96–817, 96th Cong., 2d Sess. 134 (1980) (Conference Report). The baggage storage area must be separated from the passenger area.

Section 48(l)(16)(B)(iii) requires that a bus be used predominantly in furnishing intercity transportation to meet the definition of a qualifying bus. Section 48(l)(16)(C)(ii)(I) provides that only buses used predominantly on a full-time basis for that purpose will be counted in operating seating capacity (operating capacity). Predominant use on a full-time basis is required for both purposes.

For purposes of both meeting the definition of a qualifying bus and to be counted in operating capacity, these proposed regulations apply two 90 percent tests in addition to the full-time use requirement. First, the difference between beginning and ending odometer readings for the year is determined. Ninety percent or more of those miles must be driven to provide passenger transportation or charter service (passenger service), not necessarily intercity. Thus, up to 10 percent of annual miles may be driven for non-passenger purposes, such as for maintenance. Of the miles driven to provide passenger service, 90 percent or more must be for intercity, as opposed to local, transportation. Thus, up to 10 percent of the passenger miles may be driven on local runs.

The predominant use requirement had its genesis in the provision in the original Senate bill that only buses traveling at least 10,000 miles in a year be taken into account for that year. See H.R. Rep. No. 96–817, 96th Cong., 2d Sess. 134–35 (1980) (Conference Report). That requirement was changed in conference to cover buses acquired toward the end of the year. These proposed regulations therefore require 10,000 miles of use to meet the full-time use test but apportion the 10,000 mile figure on a daily basis for buses acquired during a taxable year.

Operating Seating Capacity

Section 48(l)(16)(C)(i) limits the amount of qualified investment to be taken into account for the energy credit based upon the increase in operating seating capacity (operating capacity) for the taxable year over that capacity as of the close of the preceding taxable year. These proposed regulations define operating capacity for a year as the number of seats in the taxpayer's fleet as of the end of each year. Only buses used predominantly on a full-time basis to provide intercity transportation are taken into account. All those buses are included, however, even if they are not eligible for the energy credit because, for example, they were acquired used.

Further, under these proposed regulations, if the increase in operating capacity for taxable year is less than the total seating capacities of buses added during the year, the increase in operating capacity is determined by mulitply qualified investment for each bus by the ratio of increase in capacity to added capacity. Increase in capacity is the difference between prior year's capacity and present year's capacity. Added capacity is the number of seats included in present year's capacity which were not included in prior year's capacity. Any bus contributing to an increase will be counted as added capacity, including non-qualifying buses.

Related Taxpayers

Under section 48(l)(16)(C)(ii)(II), the Secretary is to prescribe rules for treating related taxpayers as one person in applying the limitation based on increase in operating capacity. The key element in defining related taxpayers is common control. These proposed regulations apply the definition contained in § 1.52–1 (b), in keeping with the suggestion in the legislative history. *See*, H.R. Rep. No. 96–817, *supra* at 134.

These proposed regulations require that operating capacity be based upon

group usage. If the group as a whole experiences an increase in operating capacity, the energy credit for a qualifying bus is allocated to the member acquiring the bus, whether or not that member individually has had an increase in operating capacity. Each member determines the composition of the group and makes all group calculations based upon its own taxable year. If one bus company (acquiring corporation) acquires another bus company (transferor) in a transaction to which section 381(a) applies, the acquiring corporation cannot add the transferor's operating capacity to its own to determine its increase for its first taxable year ending after the date of the acquisition. This treatment reflects the fact that the transferor was able to use that capacity to determine eligibility for its own energy credit for its final taxable year.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regualtory Flexibility Act (5 U.S.C. chapter 6).

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking whcih solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Yerachmiel E. Weinstein of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR Part 1

Income taxes, Tax liability, Tax rates, Credits.

Proposed Amendments To The Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.46–3(f)(1) is amended by adding at the end thereof the following new sentence:

§ 1.46–3 Qualified investment.

* * * * *

(f) *Partnerships*—(1) *In general.* * * * For computation of each partner's qualified investment for the energy credit for a qualified intercity bus, see § 1.48–9(q)(8)(iv).

* * * * *

Par. 2. Section 1.47–1(h)(3) is amended by:

1. Inserting "(i)" between "(3) *Cessation."* and "The term", and

2. By adding a new subdivision (ii). The new subdivision (ii) reads as follows:

* * * * *

(h) *Special rules for energy property.* * * *

(3) *Cessation.* * * *

(ii) A qualified intercity bus described in § 1.48–9(q) must meet the predominant use test (of § 1.48–9(q)(7)) for the remainder of the taxable year from the date it is placed in service and for each taxable year thereafter. A cessation occurs in any taxable year in which the bus is no longer a qualifying bus under § 1.48–9(q)(6).

A qualified intercity bus does not cease to be energy property for a taxable year subsequent to the one in which it was placed in service by reason of a decrease in operating capacity (see § 1.48–9(q)(8)) for that year compared to any prior taxable year.

Par. 3. Section 1.48–9 is amended by adding at the end thereof a new paragraph (q) to read as follows:

§ 1.48–9 Definition of energy property

* * * * *

(q) *Qualified intercity buses*—(1) *In general.* This paragraph (q) prescribes rules and definitions for purposes of section 48(l)(2)(A)(ix) and (16). Energy property includes qualified intercity buses of an eligible taxpayer, but only to the extent of the increase in the taxpayer's total operating seating capacity (operating capacity) under paragraph (q) (8), (9), and (10) of this section. For application of recapture rules see § 1.47–1(h)(3)(ii).

(2) *Eligible taxpayer.* A taxpayer is an eligible taxpayer only if it is determined to be both—

(i) A common carrier regulated by the Interstate Commerce Commission or an appropriate State agency and

(ii) Engaged in the trade or business of furnishing intercity transportation by bus.

(3) *Common carrier.* The taxpayer is a common carrier only if the taxpayer holds itself out to the general public as providing passenger bus transportation for compensation over regular or irregular routes, or both.

(4) *Appropriate State agency.* A State agency is appropriate only if it has both—

(i) Power to regulate intrastate transportation provided by a motor carrier, within the meaning of section 10521(b)(1) of the Revised Interstate Commerce Commission Act (49 U.S.C. 10521(b)(1)), and

(ii) Power to initiate an exemption proceeding under section 10525(b) of that Act (49 U.S.C. 10525(b)).

(5) *Intercity transportation.* Intercity transportation means intercity passenger transportation or intercity charter service. Intercity transportation does not include transportation provided entirely within a municipality, contiguous municipalities, or within a zone that is adjacent to, and commercially a part of, the municipality or municipalities (within the meaning of section 10526(b)(1) of the Revised Interstate Commerce Commission Act (49 U.S.C. 10526(b)(1)). See 49 CFR Part 1048 (regulations defining commercial zones under that statute).

(6) *Definition of qualified intercity bus.* A qualified intercity bus (qualifying bus) is an automobile bus—

(i) The chasis and body of which are exempt (under section 4063(a)(6)) from the 10-percent excise tax generally imposed under section 4061(a) on trucks and buses,

(ii) With a seating capacity of at least 36 passengers (in addition to the driver),

(iii) With one or more baggage compartments, in an area separated from the passenger area, with an aggregate capacity of at least 200 cubic feet, and

(iv) Which meets the predominant use test.

(7) *Predominant use test.* (i) A bus meets the predominant use test for a taxable year only if it meets the following conditions:

(A) It is used on a full-time basis during the taxable year,

(B) At least 90 percent of the total miles driven are driven while furnishing passenger transportation or charter service (passenger service), and

(C) At least 90 percent of the miles driven while furnishing passenger service are driven to furnish intercity transportation.

(ii) A bus driven from the end point of one trip to the beginning point of another trip, both of which furnish intercity transportation, will be considered to have been driven while furnishing passenger service and to furnish intercity transportation even if no passengers or freight are carried.

(iii) A bus is considered used on a full-time basis in a taxable year if it was driven 10,000 miles in that year. If the bus was placed in service during the taxable year, or for a short taxable year described in section 441(b)(3), that 10,000 mile figure is prorated on a daily basis.

(iv) A qualifying bus which is leased is energy property only if the lessee is an eligible taxpayer and the bus meets the predominant use test in the hands of the lessee. If the leased bus is energy property, the lessor itself is eligible for the energy credit. The lessor may also elect under section 48(d) to treat the lessee as having acquired the bus. See paragraph(b)(2)(ii) of this section. Notwithstanding § 1.47–2(b)(1) (relating to the effect of a disposition by the lessee on the credit claimed by the lessor), if, by reason of a lease or the termination of a lease, a bus is used in a taxable year subsequent to the credit year by a person other than the one whose increase in operating capacity determined the amount of qualified investment for the energy credit, a disposition of the bus under § 1.47–1(h)(2) results. However, if the energy credit for a bus was earned in a taxable year and a lease of the bus which qualifies under section 168(f)(8) (safe-harbor lease) is entered into in a subsequent taxable year, the safe-harbor lease is not a disposition of the bus and the lessee under that lease is treated as the lessee for purposes of this paragraph (q)(7)(iv). For amended return requirement if the energy credit was allowed in a prior taxable year, see § 5c.168(f)(8)–6(b)(2)(ii). For the rule for determining whose operating capacity determines qualified investment for the energy credit, see paragraph (q)(8)(ii) of this section. For the rule for leases to related taxpayers, see paragraph (q)(9)(ii) of this section.

(v) If a qualifying bus fails to meet the predominant use test in a taxable year, a cessation occurs in that taxable year. See § 1.47–1(h)(3)(ii).

(vi) The following examples illustrate this subparagraph (7):

Example (1). X, a bus company, used a bus for trips between city M and city N, a distance of 100 miles. These trips qualify as furnishing intercity transportation. During the taxable year, 400 round trips were run carrying passengers both ways and 50 trips were run carrying passengers from city M to city N immediately after each of which the bus was returned to city M for the next trip. The bus was also driven 5,000 miles to furnish passenger service which was local transportation. The difference between beginning and ending odometer readings for the taxable year was 100,000 miles. X makes the following calculations to determine if it met the predominant use test for the taxable year.

I

1. Total miles driven	100,000
2. Miles driven while furnishing passenger service:	
a. Passenger round trips (100×2×400)	80,000
b. Passenger one-way (50×100)	5,000
c. Non-passenger return trips (50×100)	5,000
d. Local transportation	5,000
e. Total passenger miles	95,000
3. 90 percent of line 1	90,000

II

4. Miles driven while furnishing passenger service (line 2e)	95,000
5. Miles driven to furnish intercity transportation (sum of lines 2a, b, and c)	90,000
6. 90 percent of line 4	85,500

Since line 1 is at least equal to 10,000 miles, the full-time use requirement of paragraph (q)(7)(i)(A) of this section is met. Since line 2e is at least equal to line 3, and line 5 is at least equal to line 6, both 90 percent conditions of paragraph (q)(7)(i) of this section are met. Thus, the bus meets the predominant use test for the taxable year.

Example (2). The facts are the same as in example (1), except that the bus was placed in service on the last day of the taxable year. The bus was used only to run one round trip, carrying passengers, between cities M and N. 10,000 miles × one day ÷ 365 days = 27.4 miles. Since during the one day period during the taxable year beginning with the day the bus was placed in service the bus was driven more than 27.4 miles, and all these miles were driven to furnish intercity transportation, it met the predominent use test for the taxable year.

(8) *Operating capacity.* (i) Qualified investment for a qualifying bus is taken into account for the energy credit only to the extent the bus increases the taxpayer's operating capacity. The increase in a taxpayer's operating capacity is the excess of the taxpayer's operating capacity for the current taxable year over its operating capacity for the immediately preceding taxable year. Related taxpayers determine operating capacity on a group basis under paragraph (q) (9) of this section.

(ii) Operating capacity for a particular taxable year is determined by adding together the seating capacities of all buses used by the taxpayer which qualify as intercity buses in the taxpayer's hands in that year. An intercity bus is a bus which meets the chassis and body test and the predominant use test in paragraph (q) (6) of this section whether or not the bus is still in use at the end of the taxable year. In the case of a leased bus to which paragraph (q) (7) (iv) of this section applies, the lessee's operating capacity determines qualified investment for the energy credit.

(iii) The qualified investment for the energy credit for a qualifying bus is the bus's qualified investment for the regular credit multiplied by a fraction. The numerator of the fraction is the increase in the taxpayer's operating capacity for the taxable year. The denominator is the added operating capacity for the taxable year. Added operating capacity for the taxable year is determined for a taxpayer by adding together the seating capacities of the taxpayer's intercity buses included in operating capacity for the taxable year which were not included in operating capacity for the immediately preceding taxable year.

(iv) In the case of a partnership, each partner's qualified investment for the energy credit for a qualifying bus is the partner's qualified investment for the regular credit (determined under § 1.46–3(f)) multiplied by the fraction referred to in paragraph (q)(8)(iii) of this section for the partnership, as determined for the partnership taxable year in which the bus is placed in service.

(v) The following example illustrates this subparagraph (8):

Example. Corporation Y is a calendar year bus company that is an eligible taxpayer under paragraph (q)(2) of this section. Based upon the facts as set forth in the following table, Y makes the following calculations to determine the energy credit earned in 1981:

1. 1980 operating capacity:	
a. 5 intercity buses × 50 seats each	250
b. Total 1980 operating capacity	250
2. 1981 operating capacity:	
a. 2 1980 buses used on a full-time basis in 1981	100

b. 1981 added capacity:	
i. Qualifying buses:	
Bus 1	45
Bus 2	55
Bus 3	50
ii. Intercity bus not a qualifying bus	50
iii. Total 1981 added capacity	200
c. Total 1981 operating capacity	300
3. 1981 increase in operating capacity (line 2c − line 1b)	50
4. Fraction for determining qualified investment attributable to increase in capacity (line 3 ÷ line 2b.iii.)	¼

Accordingly, the energy credit earned in 1981 for each of the qualifying buses is determined as follows:

Qualified investment for the regular credit	×	Line 4	×	Energy percentage	=	Energy credit earned
Bus 1: $15,000	×	¼	×	10	=	$375
Bus 2: $20,000	×	¼	×	10	=	500
Bus 3: $25,000	×	¼	×	10	=	625
Total energy credit earned in 1981.						1,500

(9) *Related taxpayers.* (i) Related taxpayers are treated as one taxpayer in determining the increase in operating capacity and in determining a qualified bus' qualified investment for the energy credit under paragraph (q)(8)(iii) of this section. Related taxpayers are members of a group of trades or businesses that are under common control (as defined in § 1.52–1(b)).

(ii) Related taxpayers make all computations relating to operating capacity on a group basis. Also, the determination of whether a bus meets the predominant use test is made on a group basis by aggregating bus usage by each member of the group. For example, if a bus is acquired by one member and used by that member for part of a taxable year and by other members for the remainder, the combined usage is aggregated in determining whether the predominant use test is met. In addition, all related taxpayers are treated as one person in applying paragraph(q)(7)(iv) of this section.

(iii) The energy credit earned for a qualifying bus is allocated to the member which acquired (or is a lessee treated under section 48(d) as having acquired) the bus whether or not that member had a separate increase in operating capacity for the taxable year.

(iv) Each member must make its own computation of the group's increase in operating capacity for the period comprising its taxable year. A member will make this computation as of the end of its taxable year ignoring different taxable years of other members. The member makes all calculations relating to group operating capacity for the period of its taxable year including the determination of full-time use by other members.

(v) Each member determines the composition of the groups as of the end of that member's taxable year. For example, if X makes its computation as of December 31, 1981, and Y is a member of X's group at that time, Y's operating capacity determined as of the end of X's immediately preceding taxable year (December 31, 1980) is taken into account by X for that taxable year even if Y was not a member of the group for any day prior to December 31, 1981.

(vi) The following example illustrates this subparagraph (9):

Example (a). Corporations X and Y are related taxpayers. In this example, each bus is a qualifying bus with a seating capacity of 50. Unless otherwise indicated, each bus was used on a full-time basis for the relevant period corresponding to X's or Y's taxable year even if retired during that period. Other facts are set forth in the following table:

	X	Y
Taxable year ends	Dec. 31	June 30.
Operating capacity for 1979.	5 buses	10 buses.
Buses added	3 buses 3/1/80	3 buses 5/15/81.
Cost of each added bus.	$40,000	$60,000.

(b) X makes the following calculations to determine the energy credit earned for calendar year 1980.

1. 1979 operating capacity:	
a. Attributable to X (5 buses × 50 seats)	250
b. Attributable to Y (10 buses × 50 seats)	500
c. Total 1979 operating capacity	750
2. 1980 operating capacity:	
a. X's 5 and Y's 8 1979 buses used on a full-time basis in 1980	650
b. 1980 added capacity (X's 3 buses × 50 seats)	150
c. Total 1980 operating capacity	800
3. 1980 increase in operating capacity (line 2c − line 1c)	50
4. Fraction in paragraph (q)(8)(iii) of this section (line 3 ÷ line 2b)	1/3

Accordingly, X earned an energy credit of $4,000 in 1980 ($40,000 × 1/3 × 10% × 3 buses).

(c) Since in calendar year 1981 X placed no qualifying buses in service, X earned no energy credit in 1981.

(d) Since in the taxable year 7/1/79–6/30/80 Y placed no qualifying buses in service, Y earned no energy credit in that taxable year.

(e) Y makes the following calculations to determine the energy credit earned in the taxable year 7/1/80–6/30/81.

1. Operating capacity for the taxable year ending 6/30/80:	
a. Attributable to X (8 buses × 50 seats)	400
b. Attributable to Y (10 buses × 50 seats)	500
c. Total operating capacity for that year:	900
2. Operating capacity for the taxable year ending 6/30/81:	
a. X's 6 and Y's 8 buses from prior taxable year used on a full-time basis during current taxable year	700
b. Capacity added during current taxable year (Y's 3 buses × 50 seats)	150
c. Total operating capacity for that year	850
3. Increase in operating capacity for taxable year ending 6/30/81 (line 2c − line 1c)	(50)

As determined for Y's taxable year ending 6/30/81 the group experienced a decrease in operating capacity. Thus, no energy credit is available for the buses Y placed in service in its taxable year ending 6/30/81.

(10) *Section 381(a) transactions.* In the case of a transaction described in section 381(a), the operating capacity of each transferor or distributor corporation, determined as of the date of distribution or transfer (within the meaning of § 1.381 (b)–1 (b)), shall not be included in the operating capacity of the acquiring corporation for its first taxable year ending on or after that date for purposes of determining the acquiring corporation's energy credit for that year. This subparagraph (10) shall not apply to any case to which subparagraph (9) (dealing with related taxpayers) applies.

Par. 4. Section 1.381 (c) (23)–1 is amended by adding at the end thereof new paragraph (i) and (j):

§ 1.381(c) (23)–1 Investment credit carryovers in certain corporate acquisitions.

* * * * *

(i) [Reserved]

(j) *Carryover of operating capacity for qualified intercity bus.* For rules for determining an acquiring corporation's qualified investment for the energy credit for a qualified intercity bus, see § 1.48–9(q)(10).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82-24384 Filed 9-2-82; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Defense Intelligence Agency

32 CFR Part 292a

[DIA Regulation 12-12]

Privacy Act of 1974; Implementation

AGENCY: Defense Intelligence Agency, DOD

ACTION: Notice of proposed rulemaking.

SUMMARY: The Defense Intelligence Agency proposed to exempt a newly established system of records from certain provisions of the Privacy Act of 1974.

DATES: Comments must be received on or before October 4, 1982.

ADDRESSES: Submit comments to: Mrs. Helen E. Shuford; Privacy Act Office (RTS–1B) Defense Intelligence Agency, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. S. Helen E. Shuford, Privacy Act Officer, address as above, telephone: 202/695–9368.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency proposes to establish an exemption from certain provisions of the Privacy Act of 1974, Title 5, United States Code, Section 552a (Pub. L. 93–579; 88 Stat. 1896, *et seq.*) under the provisions of 5 U.S.C. 552a(k)(5) for a new system of records. This system of records is identified as L–DIA 0740, entitled: "Attache Special Project (ASP) and Companion Channel (CC) Information System." This exemption is needed to insure candor and openness in responses to inquiries about individual suitability for access and continued access to classified ASP and CC information.

List of Subjects in 32 CFR Part 292a

Privacy.

PART 292a—PRIVACY ACT OF 1974

If adopted §292a.15(b) of Title 32 CFR will be amended to read:

§ 292a.15 Specific exemptions.

In § 292a.15(b) at the end of the present entry add:

"Sysname: Attache Special Project (ASP) and Companion Channel (CC) Information System.

Exemptions:

Parts of this system may be exempt from the following portions of Title 5 United States Code section 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

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

Reason: To protect and insure the integrity of the ASP and Companion Channel Information Access Process. These are necessary to insure that the agency may obtain candid and necessary information in order to properly develop and resolve information effecting access determination. If the agency is unable to protect this information source, both individuals and agencies, may become reluctant to provide necessary information and the integrity of the access system degregated."

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

August 30, 1982.

[FR Doc. 82–24405 Filed 9–2–82; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[ME 509; A–1–FRL–2180–16]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Redesignations; Maine

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA proposes to redesignate the Town of Lincoln, Maine from attainment to nonattainment for the total suspended particulate (TSP) air quality standards. This action, requested by the state of Maine in a submittal dated September 22, 1981, is required because the primary and secondary 24 hour TSP standards have been consistently exceeded. Upon redesignation, the State of Maine will take various actions to require that emissions in the area be reduced so that it will be brought into attainment.

DATE: Comments must be received by October 4, 1982.

ADDRESS: Copies of the state submittal are available for public inspection during normal business hours at the U.S. Environmental Protection Agency, Region I, Air Management Division—Room 1903, JFK Federal Building, Boston, Massachusetts 02203; U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, DC 20460; Maine Department of Environmental Protection, Bureau of Air Quality Control, State House Station 17, Augusta, Maine 04333.

Written comments should be addressed to Harley F. Laing, Acting Director, Air Management Division, U.S. Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Peter X. Hagerty, Air Management Division, EPA, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223–5630.

SUPPLEMENTARY INFORMATION: On September 22, 1981, the State of Maine submitted a request for redesignation of the municipality of Lincoln, Maine from attainment to nonattainment for the primary and secondary total suspended particulates (TSP) ambient air quality standards. On May 4, 1982 (47 FR 19137) EPA published this redesignation to nonattainment as a direct to final action.

In the redesignation notice, EPA advised the public that the effective date of the approval would be deferred for 60 days (until July 3, 1982) and that, if, within 30 days of publication of the redesignation, notice was received that someone wanted to submit adverse or critical comments, the redesignation would be withdrawn and a new rulemaking action would be initiated by proposing the action and establishing a 30-day comment period. A general notice explaining this special procedure was published on September 4, 1981 (46 FR 44477).

EPA has received notice that a party wishes to submit adverse or critical comments on the redesignation of Lincoln, Maine. Therefore, in accordance with the procedures described above, EPA is taking final action elsewhere in today's **Federal Register** to withdraw its May 4, 1982 redesignation of Lincoln, Maine. In this notice, EPA is proposing to approve the redesignation, thus allowing the opportunity for interested parties to comment.

A detailed description of the redesignation and EPA's rationale for proposing approval are found at 47 FR 19137 (May 4, 1982). Interested persons are invited to submit pertinent comments on this proposed redesignation. EPA will consider all such comments received on or before October 4, 1982.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities.

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

(Sec. 110, Clean Air Act as amended (42 U.S.C. 7401))

Dated: July 21, 1982.

Lester A. Sutton,

Regional Administrator.

[FR Doc. 82–24322 Filed 9–2–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 123

[W–3–FRL 2200–4]

Massachusetts Department of Environmental Quality Engineering; Underground Injection Control; Primacy Application

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 received a

complete application from the Massachusetts Department of Environmental Quality Engineering requesting approval of its Underground Injection Control program; (2) the application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held if sufficient public interest is shown.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary either to approve, disapprove, or approve in part and disapprove in part the application from the Massachusetts Department of Environmental Quality Engineering to regulate Classes I, II, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by September 21, 1982. A public hearing will be held on September 28, 1982. Should EPA not receive sufficient comments or requests to present oral testimony by September 21, 1982, the Agency reserves the right to cancel the Public Hearing.

ADDRESSES: Comments and requests to testify may be mailed to Jerome Healy, Water Supply Branch Environmental Protection Agency, Region I, JFK Federal Building, Boston, Massachusetts 02203. Copies of the application and pertinent material are available between 9:00 a.m. and 4:00 p.m., Monday through Friday at the following loations:

Environmental Protection Agency, Region I, Library, 21st Floor, JFK Federal Building, Boston, Massachusetts (617) 223–5791

Massachusetts Department of Environmental Engineering, One Winter Street, Boston, Massachusetts 02108, (617) 292–5523

The Hearing will be held in the Department of Environmental Quality Engineering Conference Room, One Winter Street, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: Jerome J. Healy, Water Supply Branch Environmental Protection Agency, Region I, JFK Federal Building, Boston, Massachusetts 02203, (617) 223–6846.

SUPPLEMENTARY INFORMATION: This application from the Massachusetts Department of Environmental Quality Engineering is for the regulation of all injection wells in the State. The application includes a description of the State Underground Injection Control program, copies of all applicable regulations and forms, a statement of legal authority, and a memorandum of agreement between the Massachusetts Department of Environmental Quality Engineering and the Region I office of the Environmental Protection Agency.

List of Subjects in 40 CFR Part 123

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

Dated: August 26, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-24320 Filed 9-2-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100, 3110, 3120, and 3130

Oil and Gas Leasing; Request for Comments; Extension of Time

AGENCY: Bureau of Land Management, Interior.

ACTION: Extension of comment periods.

SUMMARY: The comment period for both these proposed rulemaking documents regarding making the Contingent Right Stipulation Optional to the Applicant for an Oil and Gas Lease and regarding the opportunity for the completion of environmental analyses by the lease applicant or the applicant's contractor to expedite the lease issuance process, published in the **Federal Register** of August 10, 1982, (47 FR 34577) is extended from August 30 to September 15, 1982.

DATE: Comment period extended to September 15, 1982.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 at the above address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Raul Martinez, (202) 343–7722.

SUPPLEMENTARY INFORMATION: On August 10, 1982, the Department published two separate requests for comments in the **Federal Register.** One request was for comments on making the Contingent Right Stipulation optional to the applicant for an oil and gas lease. The other request was for comments regarding the opportunity for the completion of Environmental Analyses by the lease applicant or the applicant's contractor to expedite the lease issuance process. Industry has since responded that due to other pressing commitments, including commenting on the proposed revision of 43 CFR Groups 3000 and 3100, they are unable to devote adequate attention to the August 10, 1982, requests for comments and are subsequently requesting an extension of the comment period for both.

Because of these requests for extension of the comment periods and in the interest of obtaining the best possible comments from industry and the public, the period for accepting comments is extended to September 15, 1982. All comments received between August 10, 1982, and September 15, 1982, will be considered.

September 1, 1982.

James M. Parker,

Acting Director.

[FR Doc. 82-24449 Filed 9-2-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6394]

Proposed Base Flood Elevation and Zone Designation Determinations for the Town of Frisco, Summit County, Colorado Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designation as described below.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information

showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designation are available for review at the Office of the Town Clerk, Frisco Town Hall, 300 Main Street, Frisco, Colorado.

Send comments to: Honorable Douglas P. Jones, Mayor, Town of Frisco, P.O. Box 370, Frisco, Colorado 80443.

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

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designation for the Town of Frisco, Colorado, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designation, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designation will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designation are as follows:

Source of flooding and location	Elevation in feet (NGVD)	Zone designation
Tenmile Creek:		
At a point located approximately 100 feet downstream of 2nd Avenue extended.	9,055	A1.
At 2nd Avenue extended	9,057	Do.
At a point located approximately 125 feet downstream of 1st Avenue extended.	9,061	Do.

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

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

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

Issued: August 6, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–24195 Filed 9–2–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA–6395]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Sapulpa, Creek County, Oklahoma Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Clerk, Sapulpa City Hall, 116 East Dewey, Sapulpa, Oklahoma.

Send comments to: Honorable Bobby Lee, Mayor, City of Sapulpa, P.O. Box 1139, Sapulpa, Oklahoma 74066.

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

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Sapulpa, Oklahoma, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation in feet (NGVD)	Zone designation
Polecat Creek:		
Northeasternmost portion of the City.	653	A12.
Southeasternmost portion of the City.	667	A10.
Southwestern portion of the City.	670	Do.
Rock Creek: At a point located approximately 250 Grove Street extended.	675	Do.

Additional annexed areas have been identified as Zones B and C.

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

List of Subject in 44 CFR Part 67

Flood insurance, Flood plains.

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

Issued: August 10, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–24196 Filed 9–2–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA–6299]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 FR 19564 on May 6, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Village of Cedarhurst, Nassau County, New York.

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

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Village of Cedarhurst, Nassau County, New York, previously published at 47 FR 19564 on May 6, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

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

List of Subjects in 44 CFR Part 67

Flood Insurance, Flood plains.

The following location description has been amended to read as follows:

Source of flooding	Location	Elevation in feet (NGVD)
Motts Creek	Entire shoreline within community.	*8

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

Issued: August 13, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–24197 Filed 9–2–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA–6391]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Casa Grande, Pinal County, Arizona, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Clerk, Casa Grande City Hall, 300 East Fourth Street, Casa Grande, Arizona.

Send comments to: Honorable Hugh N. Guinn, Mayor, City of Casa Grande, 300 East Fourth Street, Casa Grande, Arizona 85222.

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

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Casa Grande, Arizona, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations,

are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
North branch Santa Cruz Wash:		
At a point located approximately 1,250 feet east of the intersection of Kortsen Road and Trekell Road.	1,390	A2.
At the easternmost corporate limits.	1,391	A2.

All the remaining annexed areas have been identified as Zones B and C.

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

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

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

Issued: August 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24314 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6393]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Hayward, Alameda County, California Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to quality or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES:

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Engineer, 22300 Foothill Boulevard, Hayward, California.

Send comments to: Honorable Alex Giuliani, Mayor, City of Hayward, City Center Building, 22300 Foothill Boulevard, Hayward, California 94541.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Hayward, California, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The porposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Line A (zone 4):		
At Dunn Road extended	22	A1.
At a point located approximately 225 feet upstream of Clawiter Road.	30	A1.
Alameda Creek line A (zone 3A):		
Area located east of the eastern levee and between the Tidal Gates and the Southern Pacific Railroad.	7	A1.

In addition, the recently annexed area generally bounded by Berkley Road, Northfield Drive, Sandberg Way and Ruus Lane, has a proposed zone designation of Zone AH, with an elevation of 10 feet NGVD. In the two areas located just south of West A Street, at Santa Clara Street and just west of the Southern Pacific Railroad, the proposed zone designation is Zone AO, with a depth of 2 feet. Additional annexed areas have been identified as Zones B and C.

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

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

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

Issued: August 10, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-24315 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 34, 35, and 43

[CC Docket No. 82-475; RM-3926; FCC 82-362]

Amendment of Annual Report Forms O and R

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is considering revising the annual reports for wire-telegraph, ocean-cable and radio-telegraph carriers to eliminate certain reporting requirements and to revise others. This Notice is the result of a petition filed by Western Union Telegraph Company on June 18, 1981. Public Notice on the petition was given on July 8, 1981.

DATES: Comments are due on or before September 22, 1982. Reply comments are due on or before October 7, 1982.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Accounting and Audits Division, 634–1868.

List of Subjects

47 CFR Parts 1 and 43

Reporting requirements.

47 CFR Part 34

Communications common carriers, Radiotelegraph, Uniform system of accounts.

47 CFR Part 35

Communications common carriers, Wire-telegraph, Ocean-cable, Uniform system of accounts.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Annual Report forms O and R, CC Docket No. 82–475, (RM–3926).

Notice of Proposed Rulemaking

Adopted: August 4, 1982.

Released: August 16, 1982.

1. Notice is hereby given of a proposed rulemaking to revise Annual Report Form O (Form O) and Annual Report Form R (Form R). This proposal is the result of a petition filed by The Western Union Telegraph Company (Western Union) on June 18, 1981, to revise certain schedules of Form O which Western Union believes require data that are duplicative, overbroad, outdated, unnecessary or unduly burdensome. The Commission has included Form R in this proposal because the reporting requirements of that report form are identical to those contained in the Form O and, therefore, similar problems are apparent.

2. Form O is an annual report required to be filed by wire-telegraph and ocean-cable carriers,[1] whose accounting is prescribed in Part 35 of the Rules; and Form R is an annual report required to be filed by radio-telegraph carriers [2] whose accounting is prescribed in Part 34 of the Rules. These reports which are filed in accordance with Section 43.21 of Part 43 and Section 1.785 of Part 1 of the Rules provide information on the stock and stockholders; officers and directors; funded debt; property, franchises, and equipment; employees and their salaries; and financial operations of the reporting companies.

3. In response to Western Union's petition, the Commission issued a Public Notice on July 8, 1981, giving interested parties thirty days to file statements opposing or supporting the petition for rulemaking. No comments were received. Moreover, much of the reporting relief sought by the petition has been granted on an interim basis by waivers issued February 11, 1981,[3] and January 26, 1982,[4] for the 1980 and 1981 reports.

4. We are issuing this notice for the purpose of addressing those problems pointed out in or related to Western Union's petition. We believe it appropriate that these problems be addressed at this time. However, we anticipate that a more comprehensive review of Forms O and R will be made in the future to assure that the information collected continues to be needed for regulatory purposes, does not duplicate information available from other governmental sources, and is obtained with the least possible burden on the carriers.

I. Discussion

5. In this Notice we are proposing to review the Schedules requested by Western Union. Below, we have set forth the present requirements of the schedules, Western Union's proposal, and our proposed changes to the affected schedules.

Schedule 3, General Officers and Executives

6. Schedule 3 requires, in addition to other information, the reporting of compensation paid to officers and directors. Western Union proposes that the instructions to Schedule 3 eliminate any reference to directors because the information reported on Schedule 3 duplicates information reported on Schedule 2, Board of Directors. We find that there is some duplication between these schedules which should be eliminated. Accordingly, we propose deleting the reference to directors in Schedule 3.

7. Schedule 3 also requires information on compensation of persons who are not officers and directors. However, it has minimum cut-off levels for reporting their compensation and permits the data to be aggregated in compensation groups rather than requiring the reporting of individual salaries. The cut-off levels are $20,000 if the respondent's annual operating revenues are $100,000,000 or less and $40,000 if the respondent's annual operating revenues exceed $100,000,000. Western Union proposes that the annual salary cut-off levels for employees other than officers and directors be raised to $37,500 and $75,500, respectively. Western Union further proposes that the corresponding compensation groups be revised upward. Western Union believes that the increase in the consumer price index (107 percent since December 1973) warrants an increase in the minimum salary rate for reporting purposes. We agree with Western Union that such an increase in the price index since we last granted a raise in the salary cut-off level in December 1973 warrants an increase in the minimum salary rate for reporting purposes. However, we believe that a single $75,500 cut-off level for all carriers would relieve the carriers of additional reporting burdens. Accordingly, we propose to revise the instruction to Schedule 3 to require the carriers to report only on those employees as specified by Instruction 1(b) of Schedule 3 whose salaries are

[1] Western Union is the wire-telegraph carrier and WUI Caribbean, Inc., FTC Communications, Inc., and Western Union International, Inc. are the ocean-cable carriers which report on Form O.

[2] Carriers that report on the Form R are ITT World Communications, Inc., RCA Global Communications, Inc., TRT Telecommunications Corporation, and U.S. Liberia Radio Corporation.

[3] *Waiver of Certain Reporting Requirements of Annual Reports Form O and Form R.* Order 07004, released February 13, 1981.

[4] *Waiver of Certain Reporting Requirements of Annual Reports Form O and Form R.* Order 1822, released January 27, 1982.

$75,500 or higher. In addition, we propose that the compensation groups be revised accordingly.

8. Schedule 3 requires data for all officers and directors whether or not they received any compensation from the carrier at any time during the year for current or past services. Western Union proposes that the carriers report the compensation paid to assistant general officers only if their salary is $37,500 or higher (or $75,500 or higher for carriers with annual revenues exceeding $100,000,000). It submits that while high-salaried assistant general officers have a significant role in establishing and overseeing the implementation of company policies, lower-salaries assistant general officers, such as assistant secretaries, do not have such a role. In addition, Western Union believes that the language in Docket No. 21385 [5] makes it apparent that the Commission was concerned only with separate reporting requirements for higher salaried assistant general officers.

9. In our view, separate salary reporting requirements would be useful only for those company officials who have major decision-making responsibility. We expect that this group would be limited to the company's general officers and higher salaried assistant general officers. Therefore, we believe that a cut-off level for assistant general officers should be established. Further, we believe that the salary level of $75,500 is a reasonable cut-off point and should relieve the carriers of any unnecessary reporting burden. Accordingly, we propose that Schedule 3 be amended to require the reporting to assistant general officers only if their salary rate is $75,500 or more during the year as compensation for current or past services. The Commission is also considering the elimination of Schedule 3 and would appreciate comments on whether this schedule should be eliminated as an alternative to the changes discussed above.

Schedule 102, Analysis of Credits for Plant Retired

10. Schedule 102 requires the reporting of dollar amounts of plant retired from service. Western Union states that this schedule represents merely a recapitulation of data available on other plant schedules and proposes that this schedule be deleted. We believe that this schedule is duplicative and, accordingly, we propose deletion of this schedule.

Schedule 110, Miscellaneous Physical Property

11. Schedule 110 requires the reporting of the activity in accounts 1610, "Miscellaneous physical property," and 1615, "Allowance for depreciation—miscellaneous physical property," during the year. Western Union proposes deletion of Schedule 110 because the basic data shown on this schedule also is available on Schedule 100, Comparable Balance Sheet. We believe that the data pertaining to miscellaneous physical property reported in Schedule 100 are adequate at this time, therefore, we propose that this schedule be deleted.

Schedule 130, Special Cash Deposits

12. Schedule 130 requires the carrier to report the activity of account 1715, "Special cash deposits," during the year. Western Union proposes that this schedule be deleted because it does not appear to have much value from a financial point of view. We have reviewed the information reported in this schedule and have found that it is unnecessary for regulatory purposes. Accordingly, we propose that this schedule be deleted.

Schedule 131, Working Cash Advances

13. Schedule 131 requires the reporting of advances received over $10,000. Western Union proposes that this schedule be deleted because the amounts are relatively minor, and the total amounts do appear on Schedule 100, Balance Sheet. We propose that this schedule be deleted because the information reported on this schedule is unnecessary for the accomplishment of our regulatory functions.

Schedule 132, Temporary Investment

14. Schedule 132 requires the reporting of activity in account 1725, "Temporary investments," during the year. Western Union proposes that Schedule 132 be deleted for the same reasons as stated for Schedules 130 and 131, namely that it is unnecessary for the accomplishment of our regulatory functions. We have reviewed Schedule 132 and tentatively agree with Western Union. Accordingly, we propose that this schedule be deleted.

Schedule 140, Material and Supplies

15. Schedule 140 provides for the reporting of regulated and unregulated equipment that is accounted for in account 1795, "Material and supplies." Western Union proposes that this schedule be deleted because the details shown on the schedule do not add much to the details for this account as shown on the balance sheet schedule. The Commission will initiate a Notice of Proposed Rulemaking in the near future to consider accounting changes to Parts 34 and 35 to implement the Commission's decision in *Second Report and Order in Docket No. 21005, Interface of the International Telex Service with the Domestic Telex and TWX Service,* 86 FCC 2d 411 (1981), which, *inter alia,* deregulated the provision of customer premises equipment (CPE) used in providing Telex/TWX service. Further, the *Memorandum Opinion and Order in Docket No. 20828, In the Matter of Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry),* 84 FCC 2d 50 (1980) provided, inter alia, for the deregulation of all new CPE for domestic telegraph carriers as of January 1, 1983.

16. Schedule 140 provides the only report showing material and supplies used for unregulated activities. We believe that it would be premature to delete this schedule before the accounting for the provision of deregulated CPE is decided in the anticipated rulemaking proceeding. At that time, consideration of the continuing need for Schedule 140 may be appropriate.

Schedule 143, Prepaid Taxes and Tax Accruals

17. Schedule 143 requires the carriers to report information on Federal, state, and local taxes with state taxes listed separately by state. Western Union questions the usefulness to the public of listing the taxes paid to each individual state and proposes that state taxes be shown in total as one lump sum. We tentatively agree with Western Union and propose that Schedule 143 be revised to require the reporting of tax accruals for state and local governments in one lump sum.

18. Further, while we are in the process of revising this schedule, we are also proposing to add the reporting of information by the type of tax (i.e., Federal taxes on income and state and county and municipal taxes on income, property taxes, etc.) which is now submitted under separate cover. In

[5] *Docket No. 21385* stated the Commission's belief "that the officers to be reported should include more than just general officers as set forth in § 51.3 of Part 51 of the Rules. Using § 51.3 would include only a company's president, vice president, secretary, treasurer, general counsel, and comptroller or those officers who have the responsibilities normally associated with such titles as general officers. It is felt that the higher salaried assistant general officers and the immediate subordinates of the general officer should not be lost in the aggregation of the other employees." 67 FCC 2d at 1130.

addition, we believe that carriers should be required to report the operating taxes separate from nonoperating taxes. Such a breakdown will make tax data more readily available to the Commission in a rate of return calculation. We need this information for our cost of service computations and our annual report of statistics of communications common carriers. Accordingly, we propose that Schedule 143 be amended to report information by type of tax and to show separately the operating and nonoperating portions for each type of tax listed.

19. In addition, to be consistent with the changes in Schedule 143 for the reporting of income taxes, we propose to revise Schedule 300, Income and Earned Surplus Statement, by breaking down line 71, Income taxes, for carriers reporting on Form O, and line 70, Taxes on net income, for carriers reporting on Form R, to show the operating portion and the nonoperating portion thereof. This will provide the amount of income tax attributable to regulated activities. It will also provide a comparison base for evaluating the appropriateness of the relationship between regulated and unregulated activities.

Schedule 338D, Investment of Pension and Benefit Funds

20. Schedule 338D requires the carriers to report the breakdown of their investments in pension and benefit funds at the end of the year. Western Union proposes that this schedule be deleted because these funds come under the control of other government regulatory agencies, and it submits to these agencies detailed reports on its pension funds. Since it appears that the reporting requirements of this schedule are duplicative and are not relevant to our regulatory functions, we propose that this schedule be deleted.

Schedule 400, Wire-Telegraph and Ocean-Cable Plant Mileage

21. Schedule 400 requires the carriers to report the miles of plant wholly owned, jointly owned, and leased by the carriers. Western Union proposes that this schedule be deleted because it believes the data would not be of significant use in rate cases. While we are proposing to delete this schedule because we no longer publish any statistics from Schedule 400, we seek comments on whether the reporting of circuit mileage data is desirable and whether such data are available from company records if they should be needed in future rate cases.

Schedule 400A, Wire-Telegraph Plant Mileage—Telegraph Channel

22. Schedule 400A requires the reporting of plant mileage normally employed in intercity operations within and outside of the United States. Western Union proposes that this schedule be deleted since it believes that this schedule would not be of significant use in rate cases. We propose the deletion of this schedule but invite comments on the merits of this schedule for the same reasons as discussed for Schedule 400.

Schedule 401, Service Equipment Furnished Free to Customers

23. Schedule 401 requires the carriers to report the number of items of service equipment furnished free to customers by the carrier at the end of the year. Western Union proposes that this schedule be deleted because it no longer provides service equipment free to customers. It states that the only information provided on the schedule is the number of telegraph printers not furnished free to customers pursuant to Instruction No. 2, and the number of such units is declining, with only 142 terminals in 1979. It appears unnecessary to continue this schedule when the major data requested is no longer relevant. However, pending resolution of all issues relating to the deregulation of CPE, data on the number of telegraph printers may be desirable. Therefore, we propose deleting Schedule 401 and adding a line to Schedule 401A to report the number of telegraph printers.

Schedule 401A, Telegraph Printers in Service on Customers' Premises

24. Schedule 401A requires the carriers to report the monthly average number of the company's telegraph printers in service on customer premises according to the monthly average revenue received on sent prepaid and received collect traffic during the period in service. Western Union states that it has never been able to report accurately the data called for by this schedule. Instead, it has been reporting the number of customers who have telegraph printers on their premises based on special studies. In lieu of the current reporting, Western Union proposes to report the number of teletypewriter terminals in service (separated as to the number of Telex terminals and the number of TWX terminals). It believes that this information would be more useful to the Commission. We tentatively agree with Western Union; however, we propose to add a category for "other teletypewriter terminals" which would include teletypewriters furnished to private wire or leased customers under specific equipment tariffs. We believe that it would be useful for regulatory purposes to have such information pending deregulation of both new and embedded CPE. Currently, we see no need to collect this information after the accounting regulations are established for deregulated CPE. Accordingly, we propose to revise Schedule 401A so as to require the reporting by class of service teletypewriter terminals in service, i.e., the number of Telex terminals, the number of TWX terminals, and the number of other teletypewriter terminals.

Schedule 406, Frank Service

25. Schedule 406 requires the carriers to report the particulars called for concerning the frank service of the respondent during the year. "Frank" means any authority which authorizes free, or partially free, services. Western Union proposes that this schedule be deleted because no data have been reported in this schedule since 1967 when it was reported that all franks outstanding at the end of 1966 were cancelled. Since none of the companies are providing franks, except for emergencies, we propose that this schedule be deleted.

Schedule 410, Accidents to Employees During the Year

26. Schedule 410 provides for the reporting of accidents to employees during the year. Western Union proposes that this schedule be deleted because the data reported in this schedule are also filed with another government agency. Since the information reported in the schedule is not relevant to our regulatory functions, we propose that this schedule be deleted.

II. Conclusion

27. It is proposed that any amendment made as a result of this proceeding will be effective in the annual report Forms O and R for the reporting year 1982.

28. If the foregoing proposals are adopted, the Tables of Contents and the Indices for Form O and Form R will be amended accordingly.

29. In compliance with the provisions of Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), we certify that these reporting changes can be readily implemented by all carriers filing annual report Forms O and R without significant economic impact, and, in fact, will ease the reporting requirements of these carriers, both

large and small. The rationale for the proposed changes is outlined in the above discussion.

30. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In genaral, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commisson and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding most prepare a written summary of the presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules, 47 CFR 1.1231.

31. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and providing that the fact of the Commissions's reliance on such information is noted in the Report and Order.

32. Accordingly, it is ordered, That pursuant to the provisions of Sections 4(i) and 219, and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 219 and 220, there is hereby instituted a notice of proposed rulemaking into the foregoing matter.

33. It is further ordered, That all interested persons may file comments on the specific proposal discussed in the Notice on or before September 22, 1982. Reply comments shall be filed on or before October 7, 1982. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, 47 CFR 1.419 an original and five (5) copies of all comments shall be furnished to the Commission. Copies of the documents will be available for public inspection in the Commission's Docket Reference Room, 1919 M Street, NW., Washington, D.C.

34. It is further ordered, That the Secretary shall cause this Notice of Proposed Rulemaking to be published in the **Federal Register.**

35. It is further ordered, pursuant to Section 220(i) of the Communications Act, 47 U.S.C. 220(i), That the Secretary shall cause a copy of this notice to be served on each state commission.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-24349 Filed 9-2-82; 9:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-568; RM-4161]

FM Broadcast Station in Fairbanks, Alaska; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of FM Channel 240A to Fairbanks, Alaska, in response to a petition filed by the Great Alaska Electric Radio Company, Inc. The proposal would provide a fourth FM service to Fairbanks.

DATES: Comments must be filed on or before October 12, 1982, and reply comments must be filed on or before October 27, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 18, 1982.

Released: August 26, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Fairbanks, Alaska); BC Docket No. 82-568, RM-4161; proposed rule making.

1. A petition for rule making was filed July 19, 1982, by the Great Alaska Electric Radio Company, Inc. ("petitioner") proposing the assignment of Channel 240A to Fairbanks, Alaska, as its fourth FM assignment. The channel can be assigned in compliance with the minimum distance separation requirements. Petitioner expressed an interest in applying for the channel, if assigned.

2. Since Fairbanks is within 320 kilometers (200 miles) of the United States-Canadian border, the proposed assignment requires coordination with the Canadian government.

3. In view of the fact that the proposed assignment could provide a fourth FM service to Fairbanks, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, with respect to Fairbanks, Alaska, as follows:

City	Channel Nos.	
	Present	Proposed
Fairbanks, Alaska	266, 273, and 284.	240A, 266, 273, and 284.

4. The Commission's authority to institute rule making proceedings, showing 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 12, 1982, and reply comments on or before October 27, 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 Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a

message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in 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 advance 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 82-24371 Filed 9-2-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-565; RM-4154]

FM Broadcast Stations in Arcata, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action herein proposes the substitution of Class C Channel 226 for Channel 228A in Arcata, California, in response to a petition filed by Record Plant Broadcasting, licensee of FM Station KXGO in Arcata.

DATES: Comments must be filed on or before October 27, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 18, 1982.

Released: August 26, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Arcata, California); BC Docket No. 82-565, RM-4154; proposed rule making.

1. The Commission herein considers a petition for rule making filed July 6, 1982, by Record Plant Broadcasting, Inc. ("petitioner") proposing the substitution of Class C Channel 226 for Channel 228A, and modification of the license for Station KXGO(FM) at Arcata, California, to specify operation on Channel 226.

2. In accordance with established policy, we shall propose to modify the license of Station KXGO (Channel 228A) to specify operation on Channel 226. However, should another party indicate an interest in the Class C assignment, then the modification could not be implemented. See, *Cheyenne, Wyoming,* 62 F.C.C. 2d 63 (1976). Instead, an opportunity for the filing of a competing application must be provided.

3. In order to provide a wide coverage area station for the Arcata area, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as it pertains to Arcata, California, as follows:

City	Channel No.	
	Present	Proposed
Arcata, California	228A	226

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 12, 1982, and reply comments on or before October 27, 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 Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commisssion or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resumbits 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 headquaters, 1919 M Street NW., Washington, D.C.

[FR Doc. 82-24372 Filed 9-2-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-566; RM-4167]

FM Broadcast Station in Block Island, Rhode Island; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 257A to Block Island, Rhode Island, in response to a petition filed by Stephen J. McNamara and Peter E. Hunn. The proposal could provide a first local FM service to that community.

DATES: Comments must be filed on or before October 12, 1982, and reply comments must be filed on or before October 27, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 18, 1982.

Released: August 26, 1982.

In the Matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Block Island, Rhode Island); BC Docket No. 82–566 RM–4167; proposed rule making.

1. A petition for rule making was filed July 15, 1982, by Stephen J. McNamara and Peter E. Hunn ("petitioners") proposing the assignment of Channel 257A to Block Island, Rhode Island, as its first FM assignment. Petitioners expressed an interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the fact that the proposed assignment could provide a first FM service to Block Island, the Commission proposes to amend the FM Table of Assignment, § 73.202(b) of the Rules, for the following community:

City	Channel No.	
	Present	Proposed
Block Island, Rhode Island		257A

3. 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.

4. Interested parties may file comments on or before October 12, 1982, and reply comments on or before October 27, 1982, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in 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. *Showing 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. 82-24373 Filed 9-2-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-569; RM-4160]

FM Broadcast Stations in Reliance, South Dakota; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of Class C Chanel 233 to Reliance, South Dakota, in response to a petition filed by Midcontinent Broadcasting Company, as its first FM channel.

DATES: Comments must be filed on or before October 12, 1982, and reply comments must be filed on or before October 27, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting

Adopted: August 18, 1982.

Released: August 26, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Reliance, South Dakota); BC Docket No. 82–569, RM–4160; proposed rule making.

1. The Commission herein considers a petition for rule making filed July 15, 1982, by Midcontinent Broadcasting Company ("petitioner"), proposing the assignment of Class C Channel 233 to Reliance, South Dakota, as its first FM assignment. Petitioner stated that it will apply for the channel, if assigned. The assignment can be made in compliance with the minimum distance separation requirements.

2. Petitioner submitted community, preclusion and service information which is no longer needed to support the requested assignment in view of the action taken in BC Docket 80–130, *Revision of FM Assignment Policies and*

Procedures, 47 FR 26624, published June 21, 1982.

3. In view of the fact that the proposed assignment could provide a first FM service to Reliance, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to Reliance, South Dakota, as follows:

City	Channel No.	
	Present	Proposed
Reliance, South Dakota		233

4. The Commission's authority to institute rule making proceedings, showing 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 12, 1982, and reply comments on or before October 27, 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 Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commisssion or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of 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. 82-24374 Filed 9-2-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-567; RM-4149]

TV Broadcast Station in Rancho Palos Verdes, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of UHF Television Channel 44 to Rancho Palos Verdes, California, as its first television assignment, in response to a petition filed by South Bay Broadcasting Company, Inc.

DATES: Comments must be filed on or before October 12, 1982, and reply comments on or before October 27, 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 18, 1982.

Released: August 26, 1982.

In the Matter of Amendment of § 73.606(b) Table of Assignments, TV Broadcast Stations. (Rancho Palos Verdes, California); BC Docket No. 82–567; RM–4149; proposed rule making.

1. The Commission herein considers a petition for rule making filed by South Bay Broadcasting Company, Inc. ("petitioner") proposing the assignment of UHF Television Channel 44 to Rancho Palos Verdes, California, as the community's first television assignment. Petitioner originally proposed to locate its transmitter within the community but in a supplement to the petition specified a transmitter site on Santa Catalina Island. Petitioner expressed and interest in applying for the channel, if assigned.

2. Rancho Palos Verdes, a Pacific Coast community of 35,227,[1] is located in Los Angeles County which has a population of 7,477,657, at the western extremity of the county, approximately 32 kilometers (20 miles) south of Los Angeles on the Palos Verdes Peninsula. Petitioner states that the mountainous terrain of the Peninsula has created a "white area" in which no signals from Los Angeles area television stations can be received due to the severe "shadowing" of the Palos Verdes Mountains. Petitioner further states that with a transmitter site on Santa Catalina Island, Channel 44 could be assigned in compliance with the mileage separation requirements and supply a city grade signal to Rancho Palos Verdes. Petitioner asserts that over 60,000 persons could be provided with a first commercial television service. Petitioner has also submitted information relating to the economic, demographic and population characteristics of Rancho Palos Verdes demonstrating a need for a first commercial television assignment to the community.

3. The assignment of UHF Television Channel 44 could be made to Rancho Palos Verdes consistent with the mileage separation requirements of the rules and other technical criteria with a site restriction of approximately 28.3 miles south. Petitioner's proposed site on Santa Catalina Island would comply with the restriction. The proposed assignment will also require coordination and concurrence of the Mexican Government, since Rancho Palos Verdes is within 320 kilometers (200 miles) of the U.S. Mexico border.

4. In view of the foregoing, the Commission finds that it could be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Rules) with regard to the city of Rancho Palos Verdes, California, as follows:

City	Channel No.	
	Present	Proposed
Rancho Palos Verdes, California	.....	44+

5. 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.

6. Interested parties may file comments on or before October 12, 1982, and reply comments on or before October 27, 1982, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.606(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.

8. For further information concerning this proceeding, contact D. David Weston, 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 on court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(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

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

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. 82-24363 Filed 9-2-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-194; RM-3998, RM-4027]

FM Broadcast Station in Monterey, Byrdstown, and Lebanon, Tennessee; Withdrawal of Proposed Rule

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: This action denies both mutually exclusive petitions for rule making seeking the assignment of FM Channel 296A to either Monterey or Byrdstown, Tennessee. The Monterey proposal was submitted by R. Gene Cravens. The Byrdstown channel was sought by Robert W. Gallaher, Drew Huffines, and Edward M. Johnson. In order to make either the Monterey or the Byrdstown assignment, Station WUSU, Channel 297, Lebanon, Tennessee, would have to change its operations to Channel 298. Neither petitioner indicated its willingness to reimburse the licensee of the Lebanon station for the expenses necessary to change frequencies. Without a promise from the proponents of the assignments to reimburse the Lebanon licensee, neither the Monterey nor the Byrdstown assignement will be made.

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

SUPPLEMENTARY INFORMATION: .

Adopted: August 18, 1982.

Released: August 26, 1982.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Monterey, Byrdstown, and Lebanon, Tennessee); BC Docket No. 82-194, RM-3998, RM-4027; report and order (Proceeding Terminated).

1. Before the Commission is the *Notice of Proposed Rule Making*, 47 FR 16809, published April 20, 1982, proposing to assign FM Channel 296A to either Monterey or Byrdstown, Tennessee, and to substitute Channel 298 for Channel 297 at Lebanon, Tennessee.[1] We also ordered the licensee of Station WUSW, Lebanon, to show cause why its license should not be modified to specify operation on Channel 298. The assignment to Monterey is supported by R. Gene Cravens ("Cravens"). The Byrdstown assignment is sought by Robert W. Gallaher, Drew Huffines, and Edward M. Johnson ("Gallaher"). Comments were filed by Cravens; Gallaher; and Triplett Broadcasting of Tennessee, Inc. and Mooney Broadcasting Corporation, filing jointly. Reply comments were submitted by Cravens.

2. Monterey (population 2,610),[2] in Putnam County (population 47,601), is located approximately 136 kilometers (85 miles) east of Nashville. Monterey presently has no local aural broadcast service. Byrdstown (population 884), the seat of Pickett County (Population 4,358), is located near the Tennessee-Kentucky border approximately 128 kilometers (80 miles) northwest of Knoxville, Tennessee. Brydstown presently has no local aural service.

3. In support of the assignment to Monterey, Cravens states that if the channel is assigned, he will apply for authority to construct and operate a station there. Cravens notes that Monterey is three times larger than Byrdstown and Putnam County is nearly eleven times larger than Pickett County. Cravens also asserts that Monterey and Putnam County are experiencing rapid growth and development. Finally, Cravens alleges that the permissible transmitter site location for Channel 296A at Byrdstown is severely restricted and that due to the rugged terrain of the area, line-of-sight transmission to Byrdstown would be obscured.

4. In its comments supporting the Byrdstown assignment, Gallaher submits a detailed AM radio study in an effort to demonstrate that Monterey and Putnam County are well served by existing stations. By contrast, Gallaher states that Pickett County has no local aural service. Gallaher concludes that the need for a local outlet at Byrdstown is much greater than that at Monterey because of the disparate quantity of available AM signals. Gallaher also states that during the summer months, the tourist influx causes the community's population to double. Gallaher concludes that Channel 296A should be assigned to Byrdstown.

5. In reply, Cravens avers that one assumption can reasonably be drawn from the AM radio study submitted by Gallaher: that both communities receive service from five or more existing AM stations. Cravens lists five stations within twenty miles of Byrdstown which operate full-time with power of 1 kW. Cravens then refers to the Commission's recently adopted FM assignment priorities for use in selecting between mutually exclusive assignment proposals.[3] Cravens opines that under the assignment priorities, Monterey deserves the assignment.

6. The assignment of Channel 296A to either Monterey or Byrdstown requires the substitution of Channel 298 for Channel 297 at Lebanon, Tennessee, and the modification of Station WUSW's license to specify operation on the new channel. Triplett Broadcasting, the licensee of Station WUSW, and Mooney Broadcasting, the proposed transferee of the station, filed joint comments indicating that no objections would be raised against the proposed channel substitution. However, Triplett/Mooney does indicate that its consent to the substitution and license modification is contingent on being reimbursed for the expenses required to change operating frequencies. Triplett/Mooney states that these expenses will include the necessary changes in the antenna system, other technical, engineering, and legal costs, and reasonable out-of-pocket expenses incurred as a result of the modification.

7. At paragraphs 5-7 of the *Notice*, we discussed at length the fact that either of the proposed assignments would necessitate a channel substitution and license modification for Station WUSW at Lebanon. At paragraph 7 we stated:

Our general policy is to require the prevailing petitioner to indicate that it would reimburse the expenses involved in changing

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[1] Due to minimum separation requirements, Channel 296A cannot be assigned to both Monterey and Byrdstown. Co-channel Class A assignments must be separated by at least 65 miles; the distance between Monterey and Byrdstown is approximately 30 miles. No other channels are available for assignment to either community.

[2] Population figures are taken from the 1980 U.S. Census Advance Reports.

[3] *Revision of FM Assignment Policies and Procedures*, 47 FR 26624, published June 21, 1982.

frequencies for the Lebanon station. Both petitioners should indicate their willingness to do so or provide arguments on this matter.

Neither petitioner indicated in its comments that it would agree to reimburse the Lebanon licensee. Although Triplett/Mooney states it has no objections to the substitutions, its positions is conditioned on receiving reimbursement. Because neither petitioner indicated its willingness to reimburse Triplett/Mooney, we will not make either of the proposed assignments. See also *Lewiston, Maine,* 47 Fed. Reg. 32543 published July 28, 1982; *Westover and Grafton, West Virginia,* 48 RR 2d 168 (Broadcast Bur. 1980), *recon. granted,* 48 RR 2d 1333 (Broadcast Bur. 1981). In taking this action, we express no opinion on the merits of the proposed assignments.[4]

8. Accordingly, it is ordered, that the petitions for rule making filed by R. Gene Gravens and Robert W. Gallaher, Drew Huffines, and Edward M. Johnson, are denied.

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

10. For further information concerning this proceeding, contact Michael A. McGregor, Boradcast Bureau, (202) 632–7792.

(Secs. 4, 305, 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. 82-24365 Filed 9-2-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-538; RM-3983; FCC 82-570]

Hours of Operation of Daytime-Only AM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making and notice of inquiry.

SUMMARY: The FCC is inviting comment on proposed changes to the rules which limit operations by daytime-only AM radio broadcast stations. Over 2,300 AM stations are authorized to use their daytime facilities only between the hours of local sunrise and local sunset, in order to protect other stations against the sharply increased interference which occurs during nighttime hours. Some are permitted limited pre-sunrise operation with reduced power. The FCC is now proposing to amend its rules so as to expand the possibilities for pre-sunrise operation, and, for the first time, to permit daytime-only stations to operate post-sunset. This will avoid curtailing broadcast operation by daytime-only stations as severely as is now required during the winter months.

DATES: Comments must be received by November 15, 1982, and Reply Comments by December 15, 1982.

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

FOR FURTHER INFORMATION CONTACT:

Louis C. Stephens, FCC Broadcast Bureau, Washington, D.C. 20554 (202) 632–7792, or Wilson LaFollette, FCC Broadcast Bureau, Washington, D.C. 20554 (202) 632–9660.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 4, 1982.

Released: August 19, 1982.

Introduction

In the Matter of Hours of Operation of Daytime-Only AM Broadcast Stations; BC Docket No. 82–538, Rm–3983; inquiry and proposed rule making.

1. The Commission has before it petitions filed on September 14, 1981 by the National Telecommunications and Information Administration (NTIA) and on May 28, 1980 by the National Radio Broadcasters Association (NRBA). As a result of these petitions, comments thereon, and preliminary consideration by the Commission, we have decided to re-examine the possibilty of relaxing restrictions which limit broadcast operations by daytime-only AM stations to daylight hours and, in some cases, to pre-sunrise broadcasting at reduced power after 6 a.m. We have also decided to examine our threshold requirements applicable to AM station authorizations. Accordingly, we are initiating a rule making proceeding and invite comment on the proposed relief which we believe may be appropriate at this time. We are simultaneously initiating a Notice of Inquiry into additional possibilities.

2. We recognize the burdens upon broadcasters and the disadvantages to the public occasioned by the requirement that daytime-only AM stations cease broadcasting at sunset, and by the restrictions on pre-sunrise broadcasting. We seek to alleviate those burdens as fully as the resulting interference to other stations will enable us to justify. In doing so, we must balance service objectives of undoubted merit that conflict with each other. In order to achieve this balance, we must review our earlier assessments of where the optimal balance among competing allocation goals lies, giving due recognition to changed conditions. However, any increased authority for operation by daytime-only stations during nightime hours must be conformed to agreements with neighboring countries.

3. With respect to the instant rule making proceeding, we invite comments on the desirability of changing existing rules to:

(1) Remove the bar in § 73.99(a)(1) of the Rules to pre-sunrise operations by Class II stations located east of co-channel Class I–A stations;

(2) Permit Class II stations located outside the 0.5 mV/m 50% skywave contour of co-channel Class I–A stations located east of them to commence pre-sunrise operations at 6 a.m. local time, regardless of the time of local sunrise at the co-channel Class I–A station;

(3) Permit Class II–D stations located outside the 0.5 mV/m 50% skywave contour of co-channel Class I stations to operate past sunset until 6 p.m. local time, with a maximum power of 500 watts. Those inside the 0.5 mV/m 50% skywave contour of Class I stations located to the west of a daytime-only station would have to cease operations at 6 p.m. local time or sunset at the Class I station, whichever is earlier. Protection to co-channel Class I stations would be required, using diurnal curves, but the Class II–D stations would not be required to provide post-sunset protection to other Class II stations, and would not be entitled to post-sunset protection from other stations;

(4) Permit Class III daytime-only stations to operate past sunset until 6 p.m. local time, without protecting other Class III stations, using 500 watts power; and

(5) Adopt the use of diurnal curves for calculating protection requirements both pre-sunrise and post-sunset.

4. At the same time, we are initiating a *Notice of Inquiry* with respect to additional possibilities of relieving present restrictions on the operation of daytime-only stations. We believe that

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[4] A separate proposal in BC Docket No. 80–75 seeks the assignment of Channel 296A to Smiths Grove, Kentucky. That assignment is also contingent on the substitution of channels at Lebanon. The petitioner for the Smiths Grove assignment has indicated that it is willing to share in the reimbursement of the Lebanon licensee. If action is taken in Docket 80–75 and the Lebanon substitution is made in that proceeding, fundamental fairness dictates that, should an assignment be made to Monterey or Byrdstown in the future which was made possible by the Lebanon substitution, the ultimate permittee of either the Monterey or the Byrdstown assignment will be required to share in the reimbursement of the Lebanon licensee.

further study and information are needed before any decision can be made to proceed via rule making in these latter areas. The specific areas to be examined in the inquiry part of this proceeding are as follows:

(1) Possible qualification of licensees of daytime-only stations, under § 73.37(e)(2) of the Rules to apply for unlimited-time AM assignments on Class I–B clear channels and regional channels.

(2) Possible preferences for daytime-only station licensees seeking FM station assignments;

(3) Possible use by daytime-only stations of co-owned low power FM stations;

(4) Possible use of low power for nighttime AM operations by daytime-only stations, unrestricted to stated hours, but affording appropriate protection to unlimited-time stations;

(5) Possible use of local channels by daytime-only stations during nighttime hours; and

(6) Other possible remedies that interested parties may wish to propose.

Background

5. From the inception of AM radio broadcasting, it has been recognized that more stations can be permitted to operate during the daytime than at night when the interference range of AM signals extends many times farther out from the transmitter than during the day. Nighttime propagation conditions build up perceptibly two hours before sunset and continue to build up until they nearly level off two hours after sunset. After only slight changes during the night, the nighttime propagation by skywave (reflection from the ionosphere) starts a significant decline two hours before sunrise that continues until it ceases for all practical purposes two hours after sunrise. This daily occurrence is depicted by the diurnal curves in Attachments 1A and 1B. The immense difference between daytime and nighttime skywave conditions is dramatically evident from the statistical observation that the field strength of an AM skywave signal attains a level two hours after sunset no less than two orders of magnitude greater than its field strength at two hours before sunset. These increases in field strength occur at the middle of the AM broadcast band.

6. This enormous difference in the daytime and nighttime reach of AM signals has necessitated requiring many unlimited-time stations to reduce power, change their radiation patterns, or both, during nighttime hours. At the same time, over 2,300 stations that can be accommodated during daytime hours are required to cease operating at local sunset. Additionally, some stations are required to reduce radiation during the four "critical" daytime transition hours of post-sunrise and pre-sunset daytime skywave propagation as provided in § 73.187 of the Rules.[1]

7. Permitting all stations that operate during the daytime to continue to operate at night employing their full daytime facilities would create a vast sea of mutually interfering signals interspersed with small islands of services. However, the numerous variables involved provide opportunities to explore possible adjustment of existing restrictions on nighttime AM broadcasting. These variables include: (1) The fact that there is a gradual transition from full daytime to full nighttime propagation conditions; and (2) the fact that the signal path between protected and interfering stations east or west of each other undergoes constant shifts in the portions that are 'light' or 'dark' as the sun advances.

8. Before 1940, the Commission permitted daytime-only stations to sign on regularly at 6 a.m. In 1940, however, their regular hours of operation were changed to the hours between local sunrise and sunset. The specific times of sign-on and sign-off were determined for each month by the times of local sunrise and sunset as of the fifteenth of the month. The Commission permitted daytime-only AM stations to operate pre-sunrise, and allowed unlimited-time stations to commence operating using their daytime facilities starting at 4 a.m., subject to discontinuous of such operations upon complaint by protected stations of objectionable interference within their protected service areas. This method of relieving stations from the full impact of restrictions on nighttime broadcasting continued until 1967, when it was superseded by the present system of issuing individual Pre-Sunrise Authorizations which permit certain classifications of daytime-only stations to operate with a power of 500 watts or less between 6 a.m. and local sunrise.

9. In 1958 and 1959, the Commission conducted two major rule making proceedings (Docket Nos. 12274 and 12729) to examine in depth whether the hours of operation of daytime-only stations could be extended and made uniform throughout the summer and winter. In Docket No. 12274, we examined the possibility of regularizing daytime-only operations to permit broadcasting by daytime-only stations from 5 a.m. to 7 p.m. In a Report and Order adopted September 19, 1958 (25 F.C.C. 1135) the Commission announced that this proposal would cause such serious and extensive interference that it could not be accepted. For similar reasons, the Commission's Report and Order adopted July 8, 1959, in Docket No. 12729 (27 F.C.C. 53) rejected proposals to permit daytime-only stations to operate regulary from 6 a.m. to 6 p.m.

10. By 1961, the number of AM stations broadcasting on the 107 AM channels had surpassed 3,500, of which over 1,500 were daytime-only stations. The increasing use of the early morning sign-on privilege under the rules adopted in 1940 caused interference conflicts to proliferate to such an extent that the Commission initiated another rule making proceeding (Docket No. 14419) to obtain an improved basis for permitting pre-sunrise operation by daytime-only stations, as well as pre-sunrise use of daytime facilities by unlimited-time stations.

11. The landmark Docket 14419 proceeding culminated in a Report and Order adopted June 28, 1967 (8 F.C.C. 2d 698) establishing the basis for pre-sunrise operations. The rule adopted pursuant to this proceeding (§ 73.99) has been amended on several occasions. The more significant amendments to the rule were adopted in 1969 and 1981. See *Report and Order*, 18 FCC 2d 705, and *Report and Order*, 85 F.C.C. 2d 709.

12. In addition to establishing the domestic conditions for pre-sunrise operations by daytime-only stations, § 73.99 incorporates limitations found in agreements between the United States and neighboring countries. The principal agreements are:

(1) The 1950 North American Regional Broadcasting Agreement (NARBA);

(2) The 1967 Exchange of Notes with Canada;

(3) The 1968 U.S.-Mexican Agreements; and

(4) The 1947 Pre-Sunrise Agreement with the Bahama Islands.

13. Among other things, § 73.99 generally permits Class III daytime-only stations assigned to the 41 regional channels to obtain pre-sunrise authority for operation with their daytime antenna systems starting at 6 a.m. local time at a maximum power of 500 watts, reduced where necessary to provide full treaty protection to co-channel foreign stations. The restrictions applied to pre-sunrise operations by U.S. Class II daytime-only stations vary acording to several circumstances. Those assigned to the seven clear channels on which Canada is accorded Class I–A priority

[1] References in this *Notice* to the use of daytime facilities embrace restrictions applicable during the foregoing four "critical hours."

under NARBA may not operate pre-sunrise. This prohibition also applies to Class II stations located east of Co-channel U.S. Class I–A stations. Other Class II stations are generally eligible to apply for authority to operate pre-sunrise at a maximum power of 500 watts, reduced, where necessary, to provide requisite protection to domestic and foreign stations. Those west of a co-channel Class I–A station may commence operating at the time of sunrise at the Class I–A station. Those within the 0.5 mV/m 50% skywave contour of a co-channel Class I–B station to their east may sign on at sunrise at the easterly Class I–B station, but must protect the Class I–B station to the west. Class II stations operating co-channel with Class I–B stations, but not within the latters' 0.5 mV/m skywave contours, may sign on at 6 a.m., but must protect the Class I–B stations.

14. Additionally, § 73.1250(f) of the Rules permits AM stations to use their full daytime facilities during nighttime hours to broadcast emergency information when necessary to protect the safety of life and property, provided that regular, unlimited-time service is non-existent or inadequate. Among the situations qualifying as emergencies or this purpose are tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gasses, widespread power failures, industrial explosions, civil disorders, school closings, and changes in school bus schedules resulting from such conditions.

15. We have examined the NTIA and other proposals for extended hours for daytime-only stations and for other relief. Some of the proposals appear suitable for consideration in rule making proceedings, while others need further study before a rule making proceeding can be initiated. We consider first those proposals which we believe are ripe for rule making.

Notice of Proposed Rule Making

16. The purpose of the rule changes which we now propose is to enlarge the existing opportunities for pre-sunrise operations by daytime-only stations, and open the way for post-sunset operation by these stations. This would be accomplished by amending pertinent provisions of the engineering rules that limit the level of interference from daytime-only stations to other stations.

17. *Pre-Sunrise Authority*—Section 73.99(a)(1) prohibits pre-sunrise operations by Class II stations located east of a co-channel, dominant Class I–A station. Class II stations so situated were excluded from eligibility to apply for pre-sunrise authority because, when we first permitted such authority for Class II stations on Class I–A clear channels in 1969,[2] nighttime protection to the skywave service provided by half of the Class I–A stations was based upon exclusive nighttime occupancy of their channels. In 1980, we eliminated nighttime exculsivity and opened up all 25 of the Class I–A clear channels for the assignment of unlimited-time Class II stations that would protect the 0.5 mV/m 50% skywave contours of co-channel Class I–A stations during nighttime hours. This removed the reason for barring pre-sunrise operations during the hours preceding local sunrise when Class I–A stations west of co-channel daytime-only stations are still operating under nighttime conditions. Accordingly, we now propose to amend § 73.99 so as to remove the present barrier to pre-sunrise operations by Class II stations located east of co-channel Class I–A stations, subject to their providing appropriate protection.

18. We also propose to change the rules to provide that Class II stations situated outside the 0.5 mV/m 50% contour of co-channel domestic Class I–A stations to their east may commence pre-sunrise operation at 6 a.m. local time, provided that no objectionable interference is caused to the 0.5 mV/m 50% contours of Class I–A stations as determined by AM Technical Standards (§§ 73.182 to 73.190). These changes would have the effect of treating Class II stations on Class I–A clear channels in a manner consistent with their treatment on Class I–B clear channels.

19. *Post-Sunset Operations*—NTIA proposes that daytime-only stations be permitted post-sunset operation in those cases where it can be shown that the protection requirements are met. It further proposes that diurnal curves be used in applying the protection requirements.

20. In Dockets 12274 and 12729, the Commission concluded that if the operating hours of daytime-only stations were extended in the manner proposed in those proceedings, the population that would gain service would be vastly exceeded by the population that would lose service from existing stations, assuming the use of full daytime facilities. In Docket 14419, the Commission gave additional consideration to pre-sunrise operations for daytimers, and struck a balance between the many issues considered. We now propose to change the rules to permit post-sunset operations in a manner that appears to strike a balance between the needs of daytimers to provide additional service after sunset during the winter months when daylight hours are short, and the need to protect the service that is being provided by fulltime stations.

21. The commission is of the view that this balance can be struck by permitting post-sunset operations by Class II–D and Class III daytimers, with a maximum power of 500 watts until 6:00 p.m. local time. Protection to co-channel Class II and Class III stations would not be required. Comments are requested on all aspects of this proposal, including any resulting burdens on pertinent stations and on the Commission.

22. Our proposal for Class II–D stations operating post-sunset is quite similar to the present provisions for pre-sunrise operations. We propose that Class II–D stations situated outside the respective 0.5 mV/m 50% contours of co-channel Class I stations (either Class I–B or Class I–A) should be authorized to apply for post-sunset authorizations to commence operations at sunset and continue until 6:00 p.m. local time. Under our proposal, other Class II–D stations could commence post-sunset operations with their daytime or critical hours antenna systems at the sunset time specified in their basic instrument of authorization and continue until 6:00 p.m. local time or sunset at the nearest Class I station located west of the Class II–D station (whichever is earlier), provided that the 0.5 mV/m 50% contour of Class I stations located to the east are protected. Comments are invited as to whether Class II unlimited-time stations should be afforded an opportunity to operate post-sunset with their daytime or critical hours antenna systems at a maximum power of 500 watts, if daytime-only stations are permitted to operate post-sunset.

23. *Diurnal Curves*—NTIA also proposes that diurnal factors be used in making interference calculations during pre-sunrise and post-sunset periods. It was proposed that the diurnal curves contained in CCIR Recommendation 435–3 be used for this purpose. We note that the curves proposed by NTIA are not the same curves that were adopted at the 1981 Region 2 Conference for AM Broadcasting held at Rio de Janeiro. The curves adopted at that conference (Figure 5 of Annex 2 to the Regional Agreement) were based upon the CCIR diurnal curves, but were adjusted for skywave propagation conditions during the second hour past sunset.

24. Studies by the FCC have indicated that the diurnal factors shown by Figure 5 are generally applicable in North America at 1000 kHz. However, FCC

[2] *Report and Order*, 18 F.C.C. 2d 705 (1969).

studies have further shown that the accuracy of Figure 5 can be improved upon and that diurnal factors during the transition periods vary with frequency. We previously prepared a compilation of curves for the period around sunset for consideration in Docket 8333, the daytime skywave proceeding. These curves found general acceptance in the comments submitted in the proceeding and were the basis for Figures 9–11 of Section 73.190 used for computing limitations on daytime radiation toward Class I stations. In Docket 14419 the FCC proposed an additional family of curves for use during the transition period preceding sunrise. However, the Commission determined that it was unnecessary to adopt the diurnal curves at that time.

25. We believe that under present day conditions, it may be appropriate to permit interference calculations to take into account the diurnal factors during the transition periods. We are therefore proposing two sets of diurnal curves, one for sunrise and the other for sunset (Attachments 1A and 1B). The curves proposed for use before sunrise are similar to those proposed in Docket 14419, except that corrections have been made to improve their accuracy. It should be noted that we are not proposing that diurnal factors on the curves greater than 1 be applied. The diurnal curves proposed for use after sunset are based upon the sunset curves that received general approval in the comments filed in the Docket 8333 proceeding.

26. We propose to amend the rules so that Class II–D stations desiring to operate post-sunset will be permitted to calculate their permissible interference levels toward Class I stations by taking the diurnal factors into account. Similarly, Class II stations would be given the same opportunity when calculating interference to Class I stations during pre-sunrise. We believe that the administrative burden of this action would be prohibitive if diurnal factors were to be taken into account on a monthly basis. Thus, we propose that diurnal curves would be used for the worst case situation and that pre-sunrise and post-sunset radiation limits thus obtained would apply for the full year. The Appendix hereto illustrates the method of applying the diurnal curves.

Notice of Inquiry

27. In addition to the specific proposals set forth above, the Commission is exploring other options to aid daytime-only stations. However, we believe that each of these options raises significant questions that must be addressed before any Notice of Proposed Rule Making could be issued on the options. Accordingly, we are initiating a Notice of Inquiry with respect to these matters. Comments are invited on whether and if so, to what extent, the subject options would be consistent with the Commission's overall allocation scheme.

28. *Allocation Restrictions in § 73.37(e)(2)*—Prior to 1964, generally anyone meeting the basic financial and legal qualifications could apply for an AM station in any community where the engineering requirements could be met. Essentially, these stations were required to operate with requisite field strength in the principal community to be served, and to provide appropriate interference protection to other co-channel and adjacent-channel stations. Some restraints were also placed on the extent to which a new station could be subjected to interference received. In 1964, the Commission tightened the restrictions on interference given and received, converting the previous flexible approach to strict "go-no-go" limitations. At the same time, the Commission initiated a policy that, in its present amended form, is found in § 73.37(e) of the Rules, *Report and Order*, 45 F.C.C. 1515. The 1964 policy requires applicants for AM stations to show that the proposed facilities would serve stated allocations objectives. Generally, applicants must provide a first primary service, or a first or second local outlet in a community without an available FM channel, or a first or second adequate signal to at least 20% of the population of the community to be served. In addition, an application for a Class II station on one of the 25 Class I–A channels may qualify if the applicant's ownership structure reflects more than 50% minority participation, or if the applicant proposed to use the station for noncommercial purposes. The primary purpose of these threshold requirements was to prevent continued absorption of dwindling AM spectrum space for additional stations in multi-station communities characterized more by the allure of larger markets than by service needs.[3]

29. As noted, daytime-only station licensees may apply for unlimited-time stations only if they meet one of the kinds of service requirements stated in § 73.37(e)(2). AM spectrum for unlimited-time stations meeting those requirements is more likely to be found on the Class I–A clear channels recently opened up for additional unlimited-time Class II stations, and on the Canadian Class I–A clear channels when they are opened up for assignments in the United States, than on the regional channels or on the Class I–B clear channels. It is additionally hoped that future negotiations with Mexico may open up opportunities for assignments on the Mexican clear channels.

30. Because the degree of saturation of regional channels and Class I–B clear channels has severely reduced the likelihood of assigning stations on those classes of channels capable of meeting existing requirements such as a first nighttime primary service or a first or second local outlet, and because these requirements can more realistically be met on other classes of AM channels or in the FM band, we believe that it may no longer be appropriate to reserve regional channels and Class I–B clear channels for stations meeting those requirements. We therefore wish to inquire into the desirability of adding to § 73.37(e)(2) a provision that would make the present licensees of daytime-only stations eligible to apply for unlimited-time Class III stations on the 41 regional channels and for unlimited-time Class II stations on the Class I–B clear channels. We recognize that this may not provide opportunities for large numbers of unlimited-time assignments to which daytime-only stations could transfer their operations. However, to the extent that this spectrum resource may help to relieve present restrictions, it may be desirable to permit it.[4] Comments are invited on this matter.[5]

31. *Preference for Daytime-only Stations Seeking FM Assignments*—Several of the proposals put forward by NTIA and commented upon by others seek relief for AM daytime-only licenses through their acquisition of FM stations. Because it does not appear possible to give a full measure of relief to all 2,300 daytime-only stations within the limited AM spectrum resources available, and because FM has gained prominence as a firmly established, if not leading,

[3] See *Report and Order*, 39 F.C.C. 2d 645 (1973) and *Report and Order*, 54 F.C.C. 2d 1 (1975) for a detailed discussion of the purposes of the principal post-1965 amendments to § 73.37.

[4] When we amended § 73.37(e)(2) in 1980 to permit minority applicants and noncommercial applicants to apply for stations on the Class I–A clear channels, we did not at the same time qualify all licenses of daytime-only stations to so apply, since it appeared preferable to favor those who met one of the previously established qualifications such as providing a first or second local nighttime service.

[5] On January 4, 1982, E. Harrold Munn, Jr. & Associates Inc., filed a petition to amend § 73.37(e)(2) to permit licensees of daytime-only stations to apply for unlimited-time operations on any AM channel. In a similar vein, the National Radio Broadcasters' May 28, 1980 petition seeks the total elimination of existing threshold requirements for the filing of AM applications. These petitions go beyond the scope of the issues we deem appropriate to explore in this proceeding.

segment of the nation's aural broadcast service, it appears appropriate, when considering the means of providing relief, to examine the possibilities in the FM band.

32. One problem for the licensees of daytime-only stations is the fact that applicants competing with them for a new local FM station may offer an additional programming source. Thus, competing applicants may be entitled to a diversification preference over daytime-only licensees in a comparative hearing. NTIA suggests that this situation should be corrected by establishing a preference for the daytime-only station licensee who petitions for the assignment of an FM channel to a community served only by the daytimer. ABC supports this preference. The Daytime Broadcasters Association proposes that the operators of daytime-only stations should be qualified for the same preference without regard to the communities they serve. The National Black Media Coalition (NBMC) favors NTIA's proposal in cases where the preference for the daytime-only station would not be superior to any preference for competing minority applicants. ABES appears to support the NTIA proposal, at least to the extent of removing a barrier to successful competition by a daytime-only station.

33. We invite comments on the legal and policy considerations which should be considered in evaluating whether a comparative preference should be awarded to the licensees of daytime-only AM stations for FM stations newly assigned to their principal communities. Commenters on this issue should note that the incumbent-preference approach advocated by NTIA, ABC and others is similar to the outcome of *Valdosta Broadcasting Co.*, 11 FCC 769 (1946). In *Valdosta*, The Commission favored an incumbent licensee who sought to increase the power and change the frequency of his AM operation over a mutually exclusive applicant who proposed the construction and operation of a new broadcast station. *Id.* at 773–774. In 1965, the Commission intended to change the *Valdosta* approach when it gave public notice that "diversification of control of the media of communications" is to be considered a "factor of primary importance" in comparative broadcast hearings involving new facilities. *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393, 394 (1965). With this background in mind, commenters should address the following and related questions:

(1) Whether it would be desirable and appropriate to award to the licensees of daytime-only stations a preference over other competing applicants for an FM channel newly assigned to the daytime's principal community of license?

(2) If such a preference is appropriate, what weight should it be given in relation to other comparative factors?

(3) Should such a preference be limited to cases where a daytime-only station provides the only local outlet?

(4) In determing whether daytime-only stations should be given a preference, how significant are such factors as:

(1) The lack of a local night time outlet;

(2) The existence of one or multiple nighttime local outlets; or

(3) The existence of one or more nearby or distant outlets providing nighttime service to the local community.

34. *Preference for Daytime-only Station Seeking Unlimited-Time AM Assignments.*—Related questions arise with respect to the comparative position of the licensee of a daytime-only station competing for an unlimited-time AM station assignable to the same community. Comments are invited on whether a preference for an unlimited-time AM station assignment should be awarded to the licensees of daytime-only stations, and if so, under what conditions.

35. *Expedition of Petitions to Assign AM Channels.*—Finally, NTIA's proposal that FM channel assignment cases initiated by a petition from daytime-only station liecnsees by expedited appears to involve a priority over all other petitions for the assignment of FM channels. Comments are invited upon the justification for such a priority.

36. *Low Power FM.*—We believe that it is useful to inquire into the desirability of permitting the licensees of daytime-only AM stations to apply for low power FM outlets which could be operated subject to protection to regular FM stations. Several pertinent questions are raised for comment:[6]

(1) Is it in the public interest to permit the use of low power FM outlets for daytime only stations?

(2) If so, should daytime-only operators be permitted to simulcast over low power FM stations throughout the broadcast day?

(3) Should such FM outlets be permitted only in smaller communities, or in communities lacking a first or a second nighttime aural broadcast outlet?

(4) Should a daytime-only operator be permitted more than one such low-power FM outlet, and should it be limited to the number necessary to reach all of its principal community or its daytime service area?

(5) Should such low-power FM stations be subject to the technical conditions applicable to the operation of FM translators?

(6) What would be an appropriate maximum limit on power?

37. *Low Power AM Operation during Nighttime Hours.*—Another proposal by NTIA is that daytime-only stations should be permitted to operate during nighttime hours with a power of 100 watts. We believe that it may be useful to inquire into the possibility of authorizing nighttime operations by daytime-only stations at such powers, not to exceed 500 watts, as would enable them to operate during as many nighttime hours as they wish. However, appropriate protection to other domestic and foreign stations would be required. It would be possible to calculate appropriate power levels during nighttime hours using the appended diurnal curves. Since such operations would not be protected, they would not be permitted to preclude normal unlimited-time operations. Comments are invited as to whether such nighttime operations by daytime-only stations should be permitted, and if so, under what conditions.

38. *Use of Local Channels.*—The Daytime Broadcasters Association has proposed that the Commission permit daytime-only stations to switch to local channels at sunset. Comments are invited as to whether, and if so under what conditions, this approach would be desirable. Since nighttime protection, in effect, is determined by separation between stations, this proposal would require compliance with the overlap restriction set out in § 73.37(c) of the Rules.[7]

Other Proposals

39. Because we believe it desirable to conduct this inquiry on a broad basis so that we may effectively canvass all reasonable possibilities for relieving current restrictions on daytime-only stations, we are not restricting comments to the particular options expressly set forth for inquiry. We shall consider all proposals. However, we

[6] These questions will be considered separately from the matters raised in a pending Petition for Rule Making (RM–3914) which relates to FM translators.

[7] This matter is raised without regard to the question under consideration in separate proceedings concerning proposals that the permitted nighttime power of Class IV stations be increased to 1kW.

briefly note the disadvantages which we believe attach to several additional proposals already on file, rendering them doubtful as a means of affording genuine relief.

40. The proposal that we immediately authorize post-sunset operations domestically within the limits provided in the 1968 U.S.-Mexican Agreement does not consider the fact that the desired channels are used by Canada as well as by Mexico. Therefore, we would first need to negotiate provisions to include in a new bilateral agreement with Canada. Presently any post-sunset operations in question would have to be notified to Canada as nighttime operations. Under NARBA, which is still in effect, this procedure would raise the nighttime limits of affected U.S. Class II stations or Class III stations, thereby opening the way to Canadian assignments which would be required to protect only those higher limits throughout the night. It appears preferable to establish first what is desirable domestically, and then negotiate with neighboring countries to attempt to secure their agreement to that basis for nighttime operations by daytime-only stations.

41. Another proposal which we consider unacceptable is the option urged by NTIA and the Daytime Broadcasters Association concerning immediate "experimental" authorization, without anterior rulemaking, to daytime-only stations for four kinds of operations: (1) To operate post-sunset in accordance with the Mexican Agreement; (2) to operate until 6 p.m. subject to a showing (which protected stations would have the burden of making) that "undue" interference is caused [8]; (3) to commence operation 30 minutes before sunrise; and (4) to operate during nighttime hours with a power of 100 watts. It is urged that the Commission has the requisite power under section 303(g) of the Communications Act to issue such authorizations, at least for "selected" stations. The basis for the selection is not given, but considerable numbers of stations are intimated. However, any modification of licenses resulting from infringement of established protection levels would give rise to section 316 licensee rights to demand lengthy, costly and burdensome adjudicatory hearings. It is only upon the adoption of rules of general applicability after notice and opportunity for comment that we may change protection requirements without section 316 hearings. Moreover since skywave propagation is calculated on the basis of statistical averaging of conditions which change from day-to-day, month-to-month, and year-to-year over the 11-year sunspot cycle, no useful data could be obtained from short-term "experimentation".

42. We have noted but, do not here evaluate, a number of variants to the remedies addressed in this *Notice*. Parties interested in doing so may advance and support them and other remedies in the comments invited on our rule making proposals or in the *Inquiry* part of this proceeding, as appropriate.

International Considerations

43. The proposals that we are making in this proceeding are directed initially to domestic considerations. International considerations have not been directly addressed because we belive that it is desirable, at this point, to establish our domestic goals in this proceeding while also pursuing international negotiations as our domestic goals become more clearly defined.

44. Of the three bilateral agreements concerning extended hours for daytime-only stations, only the 1968 U.S.-Mexican Agreement makes provision for post-sunset operations. None of the agreements recognize the use of diurnal curves for interference calculations during the transition periods.

45. Canada has previously indicated its intention to denounce NARBA, and the U.S. and Canada have entered into discussions to develop a bilateral agreement for use after such denunciation becomes effective. It is envisaged that the bilateral agreement will encompass all AM broadcasting matters that are coordinated between the two administrations. It is expected that pre-sunrise and post-sunset operations will be included in the new agreement. Consequently, preliminary discussions have already begun concerning extended hours for daytimers, and the Advisory Committee on Radio Broadcasting has already begun consideration of material to be included in the new agreement in order to advise the Commission. Discussions with Mexico and other administrations that may be affected by the proposals that we are now making have not yet begun, but long-range planning for such meetings is currently underway.

46. It is our intention to implement to the extent possible any changes to the rules that result from this proceeding, consistent with prevailing international restrictions. If future negotiations with affected administrations permit additional implementation of changes adopted in this proceeding, the rules would be amended accordingly to reflect such results.

47. *Regulatory Flexibility Initial Analysis*

I. Reason for Action

Over 2300 AM broadcast stations in the United States—half of the entire number—must sign off at local sunset. Their daytime facilities cannot be used until local sunrise. Some, but not all of them are permitted to operate pre-sunrise at reduced power. These limitations burden both the communities served and the daytime-only broadcasters.

II. The Objective

The Commission proposes, and seeks rule making and inquiry comments on a number of relaxations of present restrictions which—under a fresh assessment which we believe may strike an appropriate balance between extended hours for the operation of daytime-only stations and the containment of resultant interference to other stations.

III. Legal Basis

The proposed action is in furtherance of Section 303 of the Communications Act of 1934, as amended, which charges the Commission to explore improved uses of radio and to set the hours and powers of operation of licensed radio stations.

IV. Description, Potential Impact and Number of Small Entities Affected

Not unexpectedly, the preponderant number of daytime-only stations are among the smaller AM operations. Over half of them operate with powers of 1 kW or less. The daytime-only stations with 5 kW or greater power have less opportunity for financial growth than equivalent sized stations which are licensed to operate unlimited time. Thus, generally, AM daytime-only stations would reasonably fall within the category of small entities. The proposed changes would affect them favorably by enabling many of them to operate longer hours, particularly during the most lucrative pre-Christmas season when AM advertising revenues reach a decided peak, thus enabling the daytime-only stations to render enhanced service to the communities they serve.

V. Recording, Record-Keeping and Other Compliance Requirements

None would be added by the proposed actions.

[8] NTIA did not define its term "undue".

VI. Federal Rules Which Overlap, Duplicate or Conflict With the Proposed Rules

None.

VII. Any Significant Alternative Minimizing Impact on Small Entities and Consistent With Stated Objectives.

The rule making and inquiry proposals, together, constitute all the courses of action which the Commission believes it would generally be appropriate and practicable to consider adopting at this stage. Alternatives to the actions proposed and designated for further inquiry would consist chiefly of variants which interested parties may wish to put forward. No acceptable alternatives would appear to alter the effect on small daytime-only stations significantly, except that if the proposed remedies were not adopted, the relief they would afford would not become available.

48. For the purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a *Notice of Proposed Rule Making* until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comment/pleading and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

49. This *Notice of Proposed Rule Making* and *Notice of Inquiry* is issued pursuant to authority contained in Sections 4(i) and (j), 303, and 403 of the Communications Act of 1934, as amended. Interested parties may file comments on or before November 15, 1982 and reply comments on or before December 15, 1982. All relevant and timely comments filed in response to this *Notice* will be considered by the Commission. In accordance with the provisions of Section 1.419 of the Commission's Rules, an original and five copies of all comments, replies, briefs and other documents filed in this proceeding shall be furnished the Commission. Further, members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number in the heading. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided the fact of the Commission's reliance on such information is noted in the *Report and Order*.

50. 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.

51. For further information concerning this proceeding, contact Wilson La Follette, Broadcast Bureau, (202) 632–9660 on engineering aspects, and Louis C. Stephens, Broadcast Bureau, (202) 632–7792 on legal questions.

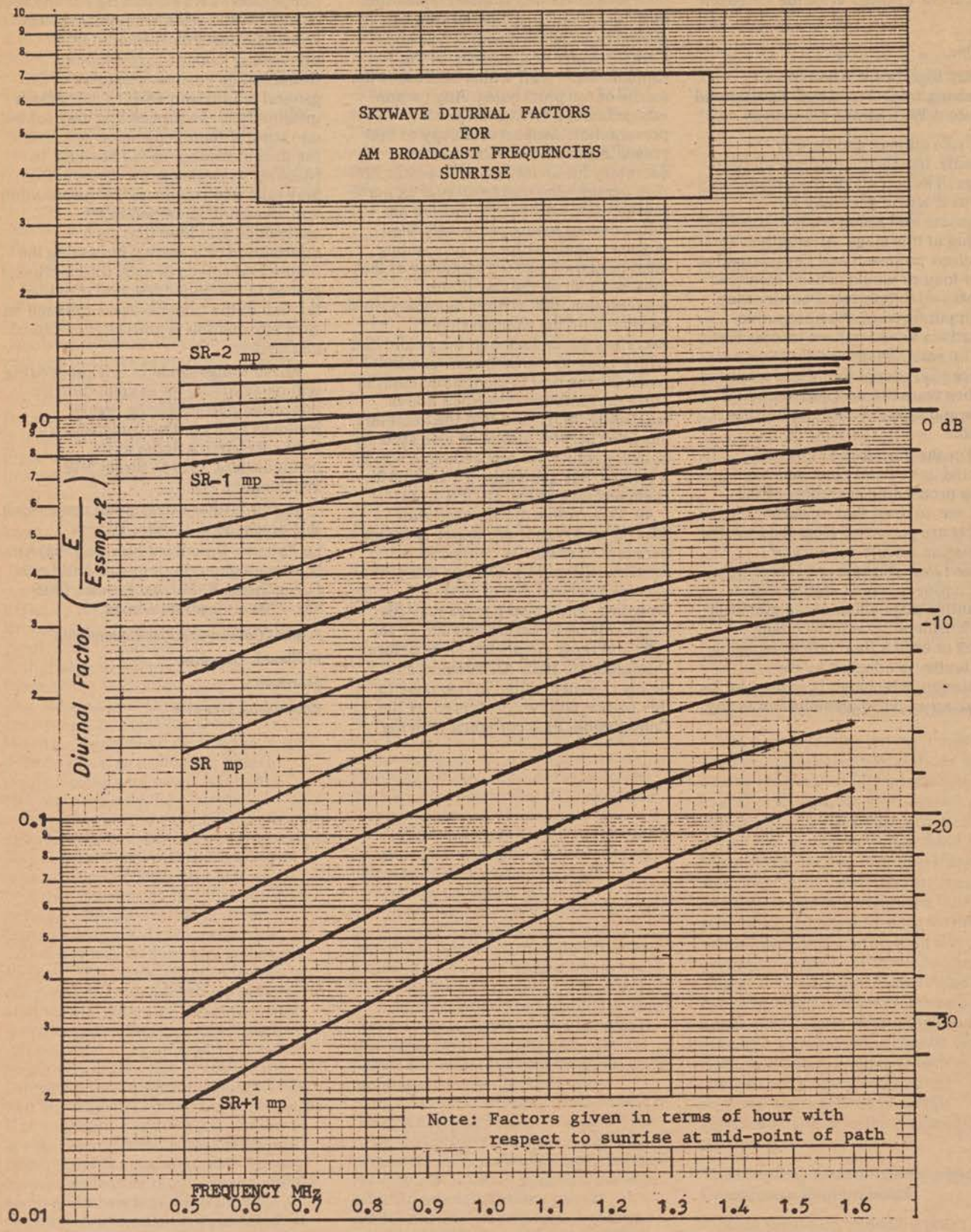
Federal Communications Commission.

William J. Tricarico,

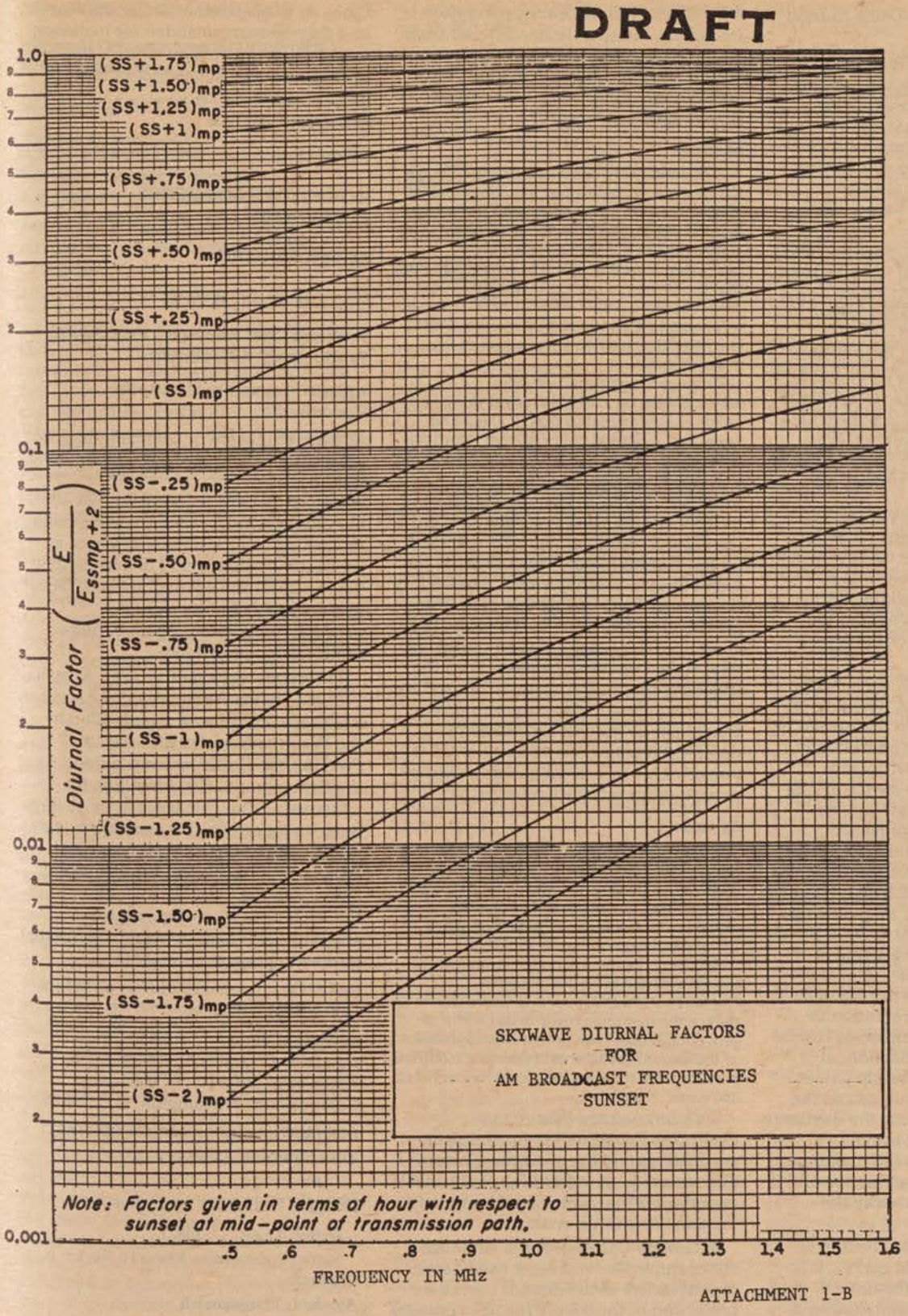
Secretary.

BILLING CODE 6712-01-M

DRAFT



ATTACHMENT 1-A



ATTACHMENT 1-B

BILLING CODE 6712-01-C

Appendix—Calculations Using Diurnal Factors

This Appendix exemplifies use of diurnal factors during pre-sunrise and post-sunset periods. Procedures for calculating full nighttime interference on a site-to-site or site-to-contour basis have been established for many years using the propagation conditions occuring two hours after sunset as a standard reference.

To calculate interference during the pre-sunrise or post-sunset periods, the full nighttime interference can be calculated and then modified taking into account the diurnal factor. Diurnal factors are obtained from the diurnal curves in Attachments 1–A and 1–B and are expressed as a ratio of the skywave field strength at any time during the pre-sunrise or post-sunset period to the skywave field strength occurring during the reference hour of two hours past sunset.

The following illustrates application of the diurnal curves when calculating required protection to the 0.5 mV/m 50% contour of a Class I station from a daytime-only station operating during the post-sunset period. A similar procedure may be used for the pre-sunrise period.

1. *Post-Sunset Operations Providing Full Nighttime Protection.* Evaluate the full nighttime interference that would be produced by the daytime operation of the station requesting post-sunset authority to points along the 0.5 mV/m 50% contour of Class I nighttime co-channel stations. The permissible interfering 10% signal from post-sunset operations is less than .025 mV/m at any point along the 0.5 mV/m 50% contour of a Class I station. Identify all points on the 0.5 mV/m 50% contour toward which the permissible interfering signal is exceeded. From these calculations the maximum permissible power for each path that will not cause radiation to exceed that which is permissible can be determined. As a simplification, of course, the lowest permissible power thus obtained could be authorized for post-sunset operation using the daytime or critical hours antenna system. However, in many cases full nighttime protection will be quite restrictive and it may be advantageous to apply the diurnal curves.

2. *Determine the Diurnal Factor.* In order to apply the diurnal curves, it is necessary to determine the time of sunset at the path mid-point. Subtract the sunset time at the path mid-point from 6:00. With this time difference, enter the diurnal factor curves, Attachment 1–B, with the appropriate frequency, interpolate linearly between the diurnal curves and read the diurnal factor. As proposed, this diurnal factor would apply for all months that post-sunset operation occurs.

Example

A hypothetical station is located in Denver, CO, proposing post-sunset operation on 1130 kHz, and a path being analayzed has a mid-point located at N 39°36′36″ W 97°02′15″. The sunset time at the path mid-point is calculated to be 4:04.1510 PM MST. Assuming that the station in Denver is permitted post sunset operation until 6:00 PM MST, it would be operating 1 hr and 55.8490 minutes (6:00 p.m.–4:04.1510 p.m.) beyond sunset at the path mid-point.

Entering Attachment 1–B with SS+1:55.8490 on 1130 kHz results in a diurnal factor of approximately 0.94. It should be noted that a diurnal factor greater than 1.0 is never used.

3. *Apply the Diurnal Factor for Modified Power.* Divide the permissible interfering 10% skywave signal toward the Class I station on the path selected by the diurnal factor. This produces the worst case interfering signal adjusted by the diurnal factor along this path from the daytime operation to the protected contour of the Class I station during the post-sunset operating period. With the proposed interfering signal increased by the diurnal factor, the proposed post-sunset power may be increased by direct ratio (using the square root of the power). This increased power would be permitted for this particular path.

Example

From the previous example, the diurnal factor was determined to be 0.94. For the hypothetical case of the station in Denver, suppose that the permissible antenna radiation for the selected path that provides full nighttime protection is 75 mV/m.

Applying the diurnal factor for this path, the permissible radiation becomes $75 \div 0.94 = 79.79$ mV/m. If it is necessary to reduce the daytime power to 260 watts to provide full nighttime protection, application of the diurnal factor would permit a modified power of 294.27 watts ($260 \times 79.79_2 \div 75^2$ or 260 watts $\div .94^2$).

4. *Determine the Post-Sunset Operating Power.* After analyzing the pertinent paths, the operating power that would be permitted for post-sunset operation is that which is determined for the most restrictive path.

5. *Foreign Consideration.* Although the example that has been used herein describes use of the diurnal curves for protection to the 0.5 mV/m 50% contours of domestic Class I stations, they are also being considered for use in calculating interference toward foreign Class A, Class B, and Class C stations and may be recommended for inclusion in any future agreement considering pre-sunrise and post-sunset operations.

[FR Doc. 82–24360 Filed 9–2–82; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1102

[Ex Parte No. 290 (Sub-4)]

Railroad Cost Recovery Procedures—Productivity Adjustment

AGENCY: Interstate Commerce Commission.

ACTION: Extension of comment date for advance notice of proposed rulemaking.

SUMMARY: At 47 FR 32176, July 26, 1982, the Commission instituted a proceeding requesting comments on the use of a productivity adjustment in determining the quarterly rail cost adjustment factor and proposals for measuring productivity and for implementing a productivity adjustment.

In response to a motion filed August 11, 1982, by the Association of American Railroads (AAR), and a reply filed by the Western Coal Traffic League (WCTL), the Commission is extending the September 9, 1982, deadline for comments in this proceeding by 45 days. Such an extension is warranted in view of the complexity of the issues involved. Although the AAR requested a 90 day extension, the Commission agrees with the WCTL that a 45 day extension should be sufficient to enable interested parties to prepare comments.

DATE: Comments are due on or before October 25, 1982.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Tom Smerdon, (202) 275–7277

or

Douglas Galloway, (202) 275–7278.

Dated: August 27, 1982.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–24212 Filed 9–2–82; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 2811-151]

Foreign Fishing; Proposed Amendments to Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA) Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA proposes to amend the foreign fishing regulations: (1) To increase the 1983 foreign fishing permit fee; (2) to reduce the surcharge fee to 4 percent in 1983, to capitalize the Fishing Vessel Gear and Damage Compensation Fund (FVGDCF); (3) to establish the method of fee calculation and payment for observer fees; (4) to require each nation to establish a single revolving letter of credit for all fee payments; and (5) to clarify the requirements for a designated agent. The proposed rulemaking would: (1) Recover the administrative costs of processing foreign fishing permits; (2) set surcharge fees as required by the Fishermen's Protective Act; (3) improve the fee collection and payment procedures; and (4) require foreign nations to designate agents to receive and respond to any legal process for any vessel of that nation fishing subject to the jurisdiction of the United States.

DATE: Comments must be received on or before October 4, 1982.

ADDRESS: Send comments to: Permits and Regulations Division, F/CM7, National Marine Fisheries Service, Washington, D.C. 20235. A regulatory impact review for this action is available at this address.

FOR FURTHER INFORMATION CONTACT: Susan E. Jelley, (202) 634-7432.

SUPPLEMENTARY INFORMATION: NOAA will publish the fee schedule for 1983 in two or three segments. This is the first segment. The second segment will propose new poundage fees. A third segment may be proposed to consider a sealed competitive bidding process for Atlantic squid allocations made during the 1983-1984 fishing year.

Permit fees. Since December 15, 1980, the National Marine Fisheries Service (NMFS) has determined foreign fishing permit application fees by estimating the cost of processing the applications for the calendar year (45 FR 82267, December 15, 1980). NMFS has assessed the current costs of processing applications. The costs used to develop the proposed 1983 permit application fee are as follows:

Department of State:	
Salaries	$30,500
Duplicating	500
Mailing	600
Computer	3,000
FEDERAL REGISTER	3,000
Total	37,600
Department of Commerce:	
Salaries	29,000
Computer processing	20,000
Printing forms	150
Messenger service	627
Total	49,777
Grand total	87,377

The estimated cost of processing permit applications in 1983 is $87,377. This total is apportioned by vessel, by estimating that 1,200 applications will be received in 1983. NMFS proposes to round the average unit cost to $73 per application, up from the 1981 and 1982 fees of $50 per application. Foreign applicants would pay the $73 plus the 4 percent surcharge discussed below on applications for 1983. This total is rounded to $76. Applicants for 1983 permits should pay this amount, pending the final rule. If adjustments are necessary, they will be addressed in the final rule.

Surcharge. The Assistant Administrator for Fisheries (Assistant Administrator) has determined that $1.7 million will be needed during 1983 to capitalize the Fishing Vessel and Gear Damage Compensation Fund established by the Fisherman's Protective Act (22 U.S.C. 1980 (10)(f)). This amount is recovered as a surcharge on the foreign fishing fees imposed under section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C. 1801 *et seq*). Based on preliminary estimates of 1982 Magnuson Act costs and a preliminary 1983 poundage fee target, NOAA proposes to reduce the surcharge from 8 percent to 4 percent. NOAA reserves the right to modify the 4 percent surcharge if the final estimate of the target fee differs from the preliminary estimate.

Method of calculating the observer surcharge. The Magnuson Act and the Atlantic Tunas Convention Act (16 U.S.C. 1827) establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel is engaged in fishing within the fishery conservation zone (FCZ). The Secretary is required to impose a fee sufficient to cover all the costs of providing observers aboard such vessels, and to collect that fee before issuing permits. The procedures and criteria to determine the total cost of placing an observer aboard a vessel are presented at 47 FR 15399 (April 9, 1982). (Response to comments on this notice will be published soon). Annual notices of costs will not be published in the **Federal Register.** Instead, the Assistant Administrator will notify each nation of the costs that he anticipates will be incurred during the subsequent year. A detailed bill will list the actual costs by country, at the end of each quarter.

Observer surcharge method of payment. Section 204(b)(11) of the Magnuson Act requires that all fees be paid before receiving a permit. Since 1981, foreign nations have established irrevocable letters of credit (L/C) for poundage and surcharge fees, at a level determined by the Assistant Administrator. Each nation is responsible for maintaining its L/C at the required level at all times as a condition of continuing in the fishery. Section 201(i)(5) of the Magnuson Act provides that the "Foreign Observer Fund" be available to the Secretary as a revolving fund for the purpose of carrying out this subsection, and requires the Secretary to assess an observer surcharge to capitalize the fund. Section 201(i)(5) of the Magnuson Act states that "the failure to pay any surcharge imposed under this paragraph shall be treated by the Secretary as a failure to pay the permit fee for such vessel under section 204(b)(10)." Until NOAA receives payment for the observer surcharge fee, fishing permits will not be issued. A confirmed L/C is deemed to meet this requirement. Under these proposed rules, NMFS will inform a foreign nation of its estimated annual observer surcharge fee as soon as possible after the Congressional appropriation. NOAA proposes that each foreign nation include in its L/C not less than one-half of the total estimated annual observer surcharge fee. Draws against the L/C for the observer surcharge fee will be made at the end of each quarter on the basis of actual observer coverage.

Revolving Letter of Credit (revolving credit). Foreign nations have established irrevocable, confirmed L/Cs for poundage and surcharge fees since 1981 for reasons presented at 45 FR 74948 (November 13, 1980). For those reasons and because the Magnuson Act and ATCA require that the observer surcharge fee is to be paid in advance, NOAA proposes that each nation establish an irrevocable, confirmed, revolving L/C for all fees (except permit fees) under the Magnuson Act. A revolving L/C will: (1) Ensure NOAA that all fees required by the Secretary are available at all times; (2) ensure that

the level of the L/C will not fall below the level determined by the Assistant Administrator; (3) preserve the integrity of the L/C procedure; (4) satisfy requirements of the ATCA, Sections 204(b)(11) and 201(i)(5) of the Magnuson Act; (5) centralize the collection procedures; (6) allow NMFS to bill on the basis of actual costs; (7) relieve the foreign nation from reestablishing a L/C at the determined level for each quarter; and (8) prevent underpayments when catches or observer days exceed the predicted amount.

Agents for foreign fishing vessels. During previous years, NOAA required foreign nations to name an agent to receive and respond to any legal process issued in the United States to an owner or operator of permitted vessels flying the flag of the nation the agent represented. During 1982, NOAA required that a designated agent be appointed to receive and respond to any legal process issued in the United States to an owner or operator of any vessel of that nation fishing subject to the jurisdiction of the United States, whether permitted or not. NOAA proposes to amend the foreign fishing regulations to incorporate this requirement.

Classification: NOAA has prepared a regulatory impact review (RIR) that discusses the economic consequences and impacts of the proposed regulations. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, has determined that the proposed regulations do not constitute a major rule under E.O. 12291. The RIR demonstrates that the proposed rules comply with the requirements of Section 2 of E.O. 12291.

These regulations will not have a significant impact on a substantial number of small entities, because the only impacts are on foreign entities. The costs to foreign vessels and their owners will be slightly increased, but the increases are only 0.5 percent of the total fishing fees paid annually to the United States. The General Counsel of the Department of Commerce has certified this to the Small Business Administration.

This action does not constitute a major Federal action significantly affecting the quality of the human environment. These amendments are programmatic functions with no potential for environmental impacts under the National Environmental Policy Act.

These proposed rules have no information collection provisions, for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: August 31, 1982.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 611 is proposed to be amended as follows:

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. Revise § 611.3 (c)(3) and (4) to read as follows:

§ 611.3 Permits for foreign fishing vessels

* * * * *

(c) * * *

(3) The payment of the fees established by the Secretary, including any surcharge fees; and

(4) The designation of an agent to receive and respond to any legal process issued in the United States to an owner or operator of any vessel of that nation fishing subject to the jurisdiction of the United States.

* * * * *

3. Revise § 611.8(b) to read as follows:

§ 611.8 Observers.

* * * * *

(b) The Assistant Administrator will notify the owner or operator of each fishing vessel to which an observer is assigned of all cost elements associated with placing an observer aboard the vessel. The owner or operator of any such vessel shall provde for repayment of those costs by including one-half of the estimated annual observer fee as determined by the Assistant Administrator in a letter of credit, as prescribed in § 611.22(a)(2)(ii). Payment will be withdrawn from the letter of credit at the end of each quarter, and will be based on actual observer deployments.

* * * * *

4. The authority citation for § 611.22 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.;* 22 U.S.C. 1980.

5. Revise § 611.22 (a)(1)(i), (a)(2)(ii), and (b) to read as follows:

§ 611.22 Fee Schedule for foreign fishing permits.

(a) * * *

(1) *Permit application fees.* (i) Each vessel permit application submitted under § 611.3 must be accompanied by a fee of $73 per vessel, plus the surcharge required under paragraph (b) of this section, rounded to the nearest dollar. At the time the application is submitted to the Department of State, a check for the fees, made out to "NOAA–Department of Commerce", must be sent to: Division Chief, Permits and Regulations Division, F/CM7, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, DC 20235. The permit fee payment must be accompanied by a list of the vessels for which payment is made.

(2) * * *

(ii) *Method of payment of poundage fees and surcharges.* If a nation chooses to accept an allocation, an irrevocable revolving letter of credit must be established and maintained at the level determined by the Assistant Administrator to cover the poundage fees, plus the surcharges required by paragraph (b) of this section and § 611.8(b). The Department of Commerce, NOAA, must be designated as the beneficiary. The customer must pay all service charges. The letter of credit must be confirmed by a Federally chartered bank in the United States. No catching will be allowed unless (A) the letter of credit is eatablished, and (B) authorized written notice of its issuance and confirmation is provided to the Assistant Administrator at the address in paragraph (a)(1)(i) of this section.

* * * * *

(b) The owner or operator of each foreign vessel who accepts and pays fees under paragraph (a) of this section must include with such payment a surcharge equal to 4 percent of the fees. The Assistant Administrator may reduce or waive the surcharge if it is determined that the Fishing Vessel and Gear Damage Compensation Fund is capitalized sufficiently. The Assistant Administrator also may increase the surcharge for a fishing year up to a maximum level of 20 percent, if needed to maintain capitalization of the fund.

[FR Doc. 82-24344 Filed 8-31-82; 4:56 pm]
BILLING CODE 3510-22-M

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50 CFR Part 645

[Docket No. 2810-150]

Fishery Management Plan; Spiny Lobster Fishery of Puerto Rico and the U.S. Virgin Islands

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, has initially approved the fishery management plan

for the Spiny Lobster Fishery of Puerto Rico and the U.S. Virgin Islands. NOAA announces that copies of the fishery management plan are available, issues this proposed rulemaking to implement the plan, and requests comments on the plan and implementing regulations. The plan and proposed implementing regulations would (1) establish a minimum harvestable size limit; (2) establish harvest restrictions for berried (egg-bearing) spiny lobsters; (3) prohibit the taking of spiny lobsters by certain gear and methods; and (4) require degradable panels on lobster traps. The regulations are designed to prevent overfishing and increase the yield of the spiny lobster stocks.

DATES: Written comments must be received on or before October 18, 1982.

ADDRESSES: Comments and requests for copies of the fishery management plan and the regulatory impact review/regulatory flexibility analysis should be sent to Jack T. Brawner, Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Jack T. Brawner, 813–893–3141.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries initially approved the fishery management plan for the Spiny Lobster Fishery of Puerto Rico and the U.S. Virgin Islands (FMP) on July 14, 1982, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). These proposed regulations implement the FMP which was prepared by the Caribbean Fishery Management Council (Council).

The FMP addresses the spiny lobster resource throughout the fishery conservation zone (FCZ) in the Caribbean Sea and Atlantic Ocean adjacent to Puerto Rico and the Virgin Islands. The management unit consists of the species *Panulirus argus*.

The Governments of Puerto Rico and the U.S. Virgin Islands actively participated in the preparation of the FMP and have expressed their willingness to adopt regulations comparable to those being proposed. However, the two governments have spiny lobster regulations differing from each other, as well as differing in important respects from the proposed measures in the FMP. The preponderance of spiny lobster landings in U.S. Caribbean waters come from waters under the jurisdiction of the two governments. The successful implementation of the FMP, as envisioned by the Caribbean Council, requires that comparable regulations be uniformly promulgated and enforced throughout the waters under the control of the two governments and in the FCZ. Therefore, the final Federal regulations will not be promulgated until comparable local regulations are implemented.

Background

Historically, spiny lobsters have been harvested as an incidental catch in the fish-pot fishery. Since World War II a high market demand coupled with escalating prices have resulted in increased harvesting effort and shifts to larger boats. Increased interest in lobster fishing is also evidenced by the more recent introduction of substantial numbers of Florida-type slat traps, which fish directly for lobster and yield a higher catch per unit of effort. The use of larger boats has extended the range of the fishery and increased the capacity to fish under inclement conditions. There were 1,723 licensed fishermen in Puerto Rico and the Virgin Islands in 1979 utilizing approximately 13,000 pots or traps. In addition to the harvest by fish pots and lobster traps, divers using spears, gaffs, or hand snares take lobsters to a lesser degree.

Adult lobsters inhabit coral reefs and rocky substrates and have been recorded from just beneath the surface to depths of 275 fathoms (1,650 feet). In Puerto Rico and the Virgin Islands they occur from the shoreline to the edge of the geological shelf, which roughly parallels the 100-fathom contour.

The spiny lobster fishery is an important resource. Commercial landings in Puerto Rico for 1971 totalled 354,750 pounds. By 1979, total landings increased to 618,900 pounds. The Virgin Islands did not begin compiling commercial statistics until 1974; the reported landings for 1975 totalled 54,560 pounds. By 1979, reported total landings had increased to 178,960 pounds. Estimated exvessel prices increased from $1.23 per pound in 1972 to $2.45 per pound in 1979. The current (1980/81) exvessel value is $2.45 per pound. The total 1979 exvessel value of spiny lobsters landed in Puerto Rico and the Virgin Islands was approximately $1,950,000. Recreational landing statistics are not recorded. Puerto Rico, however, estimates that recreational landings are approximately 10 percent of commercial landings.

Size distribution of the catch and the stable or increasing catch per unit of effort suggest that spiny lobster stocks are in a reasonably healthy biological condition. However, the increasing number of smaller lobsters in the landings and the decreasing average size indicate a trend towards overfishing. Fishermen are catching smaller lobsters to sustain recent harvest levels.

Optimum yield

The Council established a descriptive optimum yield (OY) for the fishery. OY is determined to be all the non-berried (non-egg bearing) spiny lobsters in the management area having a carapace length (CL) of 3.5 inches or greater that can be harvested on an annual basis. OY is expected to range from 582,000 pounds for the first year under FMP management to 830,000 pounds by the sixth year. The 3.5-inch size limitation ensures that most lobsters have reproduced at least once before entering the fishery, and, coupled with other management measures, should provide an adequate safeguard against biological overfishing.

Maximum sustainable yield (MSY) was calculated using the virgin-stock biomass approach, which takes into account the area of suitable lobster habitat on the shelf, observed lobster densities, and estimated fishing mortality. MSY is estimated at 830,000 pounds.

Harvest Restrictions

The Virgin Island regulates spiny lobster harvest on the basis of a 3.0-inch minimum CL, while Puerto Rico has no minimum size limitation. Small lobsters in Puerto Rican landings have increased at the average rate of two percent per year over the past decade. The average size of lobsters in Puerto Rico has declined from a 4.0-inch CL in 1957 to a 3.68-CL in 1979. During this ame period, the percentage of lobsters landed having a CL of less than 3.5 inches increased from 19.6 percent to 40.6 percent. The fastest rate of growth in spiny lobsters occurs between a 1.6- and 3.5-inch CL. Sexual maturity is attained by most females between a 3.0- and 3.5-inch CL. A minimum size limit of 3.5 inches would be established to take advantage of this period of rapid growth and to achieve sustained reproduction for the population. This minimum size restriction should reverse the trend of declining average size of lobsters and subsequently increase total yield from the fishery. Lobsters with a CL of less than 3.5 inches could be retained in traps as attractants.

The relationship of the minimum CL (3.5 inches) to reported landings or values would be analyzed when these landings or values deviate significantly from expected landings or values specified in the FMP. If the results of this analysis indicated that the 3.5-inch minimum CL does not provide sustained recruitment into the fishery or

anticipated changes in income, the Secretary of Commerce, after consultation with the Council and an opportunity for public comment has been afforded, could adjust the minimum CL in units of ¼ inch by regulatory amendment.

The proposed regulations would prohibit the retention of berried spiny lobsters and require that such lobsters be immediately returned to the water unharmed unless they are used as attractants in traps. Stripping lobsters of their eggs also would be prohibited. These measures are designed to aid recruitment by providing additional protection to spawning stock.

There are no time, area, or effort limitations in these proposed regulations.

Permits and Markings

Vessels in the lobster fishery would be required to possess either a permit issued by the governments of Puerto Rico or the Virgin Islands or by the Regional Director, Southeast Region, National Marine Fisheries Service (NMFS).

All vessels would be required to display their official number along with the color code issued with their permit. Also, traps or pots and affixed buoys would have to be identified with the vessel's color code and permit number. These markings will help resolve gear ownership conflicts between fishermen, aid law enforcement, and assist in the acquistion of data on the fishermen's mobility and fishing effort.

Gear Restrictions

The proposed regulations would require all traps or pots used for harvesting spiny lobsters to contain on any vertical side or on the top an opening no smaller than the diameter of the entrance to the trap. The opening could be covered either with degradable netting or with some other material fastened to the traps with degradable fiber or wire. These openings will allow the escapement of lobsters from lost or abandoned traps.

The use of explosives, poisons, chemicals, spears, hooks and similar devices would be prohibited for the taking of spiny lobsters. These restrictions are intended to minimize injury and mortality of sublegal-size lobsters and to prevent damage to coral reef habitat.

Statistical Reporting

Information is needed for effective management of the spiny lobster fishery. At present, Puerto Rico collects landing statistics on a voluntary basis, while the Virgin Islands has a mandatory collection system. The FMP requires mandatory reporting of catch and effort information through the improvement of these systems. Therefore, NMFS is developing a mandatory reporting system that utilizes sampling methods whenever a sample will provide adequate information. The Center Director, Southeast Fisheries Center, NMFS, will determine the number of individuals selected, the reporting interval, and the duration of reporting, based on the data required for specific management needs.

Because this system has not been completely developed and forms not yet prepared, the proposed regulations reserve § 645.5, which would provide for the collection of statistical data. It is anticipated that the mandatory reporting system will be proposed as soon as sampling procedures and reporting forms are developed and approved. The forms will be submitted to the Office of Management and Budget for clearance under Section 3507 of the Paperwork Reduction Act, Pub. L. 96–511. Until such time, current methods of data collection will be used.

Classification

The Assistant Administrator has determined that the FMP complies with the national standards, other provisions of the Magnuson Act, and other applicable law.

The adoption and implementation of the FMP is a major Federal action that will have a significant impact on the quality of the human environment. Under the National Environmental Policy Act and NOAA Directive 02–10, a draft environmental impact statement was filed with the Environmental Protection Agency. The notice of availability was published on June 2, 1980 (45 FR 37275).

The Administrator, NOAA, has determined that these proposed regulations are non-major under Executive Order 12291. A Regulatory Impact Review (RIR) has been prepared that analyzes the expected benefits and costs of the regulatory action. The review provides the basis for the Administrator's determination.

The regulations are designed to prevent overfishing and eventually increase the landings and exvessel value of spiny lobsters without unduly restricting any user group's harvesting ability. The major benefits are prevention of overfishing spiny lobster stocks which decreases future yield and economic benefits to user groups, maintenance of an orderly fishery to ensure that each user group catches its fair share on a continuing basis, and an eventual increase in landings due to the establishment of a 3.5-inch CL size limit.

The primary problem in the fishery is the unregulated harvest of small lobsters that might result in overfishing. Implementation of the minimum size limit will provide the greatest yield in lobsters over the next ten years while allowing young adults a chance to spawn at least once before being captured. By projecting the anticipated exvessel prices for the next 10 years, the estimated economic benefit of overfishing is determined as $2,251,000 to the commercial and recreational fishermen. Compliance with the regulations will impose burdens on the user groups since the FMP is designed to maintain the status-quo in the fishery while allowing a gradual changeover of fishing gear from traditional fish pots to the recently introduced wooden lobster traps. It is estimated that, on a percapita basis, fishermen will lose $228 and $118 for the first two years of fishing under the proposed minimum length restriction. Gains realized during the third and subsequent years will more than offset these short-term losses. The long-term expected benefits from this regulatory action are greater than the expected Federal and local costs to manage the fishery on a continuing basis.

The proposed regulations contain no information-collection requirements as defined by the Paperwork Reduction Act (PRA) for individuals, small business, or other persons. Prior to implementation of the data collection system mandated by the FMP, forms will be submitted to the Office of Management and Budget (OMB) for approval. Most spiny lobster vessel permits will be issued by Puerto Rico and the Virgin Islands and it is anticipated that fewer than ten applications will be submitted for Federal permits. Therefore, the PRA does not apply.

These regulations will have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act. An initial regulatory flexibility analysis has been prepared in compliance with the Regulatory Flexibility Act and has been combined with the RIR which is summarized above.

List of Subjects in 50 CFR Part 645

Fish, Fisheries, Fishing.

Dated: August 31, 1982.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

50 CFR is proposed to be amended by adding a new Part 645 to read as follows:

PART 645—SPINY LOBSTER FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Subpart A—General Provisions

Subpart B—Management Measures

Authority: 16 U.S.C. 1801 et seq.

Subpart A—General Provisions

§ 645.1 Purpose and scope.

The purpose of this part is to implement the Fishery Management Plan for the Spiny Lobster Fishery of Puerto Rico and the U.S. Virgin Islands, developed by the Caribbean Fishery Management Council under the Magnuson Fishery Conservation and Management Act. The regulations in this part govern fishing for spiny lobster by fishing vessels of the United States within the FCZ surrounding Puerto Rico and the Virgin Islands. For Puerto Rico, the inner boundary of the FCZ is nine nautical miles; for the Virgin Islands, it is three nautical miles.

§ 645.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this Part have the following meanings:

Authorized Officer means:

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any certified enforcement or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce and the Commandant of the U.S. Coast Guard to enforce the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Berried lobster means an egg-bearing lobster.

Carapace length (CL) means a head-length measurement taken from the orbital notch inside the orbital spine, in a line parallel to the lateral rostral sulcus, to the posterior margin of the cephalothorax (figure 1).

Center Director means, the Center Director, Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149; telephone 305–361–5761.

Fish includes the spiny lobster *Panulirus argus.*

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (a) Fishing; or (b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Magnuson Act means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Official number means the documentation number issued by the U.S. Coast Guard, or the registration number issued by a State or the Coast Guard for undocumented vessels.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time or voyage;

(c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Regional Director means the Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone 813–893–3141, or a designee.

Secretary means the Secretary of Commerce or a designee.

Spiny lobster means *Panulirus argus.*

State includes the Commonwealth of Puerto Rico and the U.S. Virgin Islands.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated under the Magnuson Act.

Vessel of the United States means:

(a) Any vessel documented or numbered by the U.S. Coast Guard under U.S. law; or

(b) Any vessel, under five net tons, which is registered under the laws of any State.

§ 645.3 Relation to other laws.

(a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(b) Certain responsibilities relating to data collection and enforcement may be performed by authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

§ 645.4 Permits.

(a) *General.* A vessel in the spiny lobster fishery must possess a valid fishing permit and color code issued by the Regional Director, unless the vessel possesses a valid fishing permit and color code issued by the Government of Puerto Rico or the Government of the Virgin Islands.

(b) *Application to the Regional Director.*

(1) An application for a Federal permit and color code must be submitted to the Regional Director 45 days prior to the date on which the applicant desires receipt of the permit and color code.

(2) Each application must contain the following information:

(i) The applicant's name, mailing address, and telephone number;

(ii) The name and length of the vessel;

(iii) The vessel's official number; and

(iv) The vessel's radio call sign.

(c) *Fees.* No fee is required for a permit or color code issued by the Regional Director under this part.

§ 645.5 Recordkeeping and reporting requirements. [Reserved]

§ 645.6 Vessel and gear identification.

(a) *Vessel identification.* Each fishing vessel subject to this part must display its official number and the color code issued with the vessel's permit on the port and starboard sides of the hull.

(b) *Duties of operator.* The operator of each fishing vessel subject to this part shall (1) keep the markings displaying the official number clearly legible and in good repair; and (2) insure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

(c) *Gear identification.* All traps, pots and buoys used in the spiny lobster fishery must be marked and identified as follows:

(1) Traps, pots, and affixed buoys must bear the number and color that correspond with the number and color code specified with the vessel's permit.

(2) Other gear to the extent practicable must be marked and identified in accordance with the vessel's permit.

§ 645.7 Prohibitions.

It is unlawful for any person to:

(a) Falsify or fail to affix and maintain gear and vessel markings as required by § 645.6;

(b) Fail to comply immediately with enforcement and boarding procedures specified in § 645.8;

(c) Retain on board or possess on land any berried spiny lobster, as specified in § 645.20(a)(1);

(d) Strip eggs from or otherwise molest any berried spiny lobster as specified in § 645.20 (a)(2);

(e) Willfully tend, pull, open, or otherwise molest another person's traps except as provided in § 645.20(b);

(f) Possess in the FCZ any spiny lobster with a carapace length less than the minimum size limit specified in § 645.21(a), except as allowed in § 645.21(b);

(g) Possess spiny lobster tails separated from the carapace until after they have been landed, as specified in § 645.21(c);

(h) Use traps without degradable panels, or use prohibited gear or methods, as specified in § 645.22;

(i) Possess, have custody or control of, ship transport, offer for sale, sell, purchase, import, land or export any spiny lobsters taken or retained in violation of the Magnuson Act, this part, any permit issued under this part, or any other regulation or permit issued under the Magnuson Act;

(j) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson act;

(k) Forcibly assult, resist, oppose, impede, intimidate, threaten, or interfere with any Authorized Officer in the conduct of any search or inspection described in paragraph (j) in this section;

(l) Resist a lawful arrest for any act prohibited by this part;

(m) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part;

(n) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested spiny lobsters to any foreign fishing vessel, while such vessel is in the FCZ, unless the foreign fishing vessel has been issued a permit under section 204 of the Magnuson Act which authorizes the receipt by such vessel of U.S.-harvested spiny lobsters;

(o) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 645.8 Facilitation of enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this Part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" means "You should stop your vessel instantly,"

(2) "SQ3" means "You should stop or heave to; I am going to board you," and

(3) "AA AA AA etc." is the call to an unknown station, to which the signaled vessel should respond by illuminating the vessel identification required by § 645.6(a).

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the Authorized Officer and his party to come aboard;

(2) Provide a safe ladder for the Authorized Officer and his party, if applicable;

(3) When necessary to facilitate the boarding, provide a man rope, safety line, and illumination for the ladder; and

(4) Take such other actions as necessary to ensure the safety of the Authorized Officer and his party and to facilitate the boarding.

§ 645.9 Penalties.

Any person or fishing vessel found to be in violation of this part is subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 50 CFR Part 620 (Citations) and 15 CFR Part 904 (Civil Procedures) and other applicable law.

Subpart B—Management Measures

§ 645.20 Harvest limitations.

(a) *Berried lobsters.* (1) Berried spiny lobsters must be returned to the water unharmed. Berried lobsters may be retained in traps or pots as attractants until the eggs are shed, provided the traps are returned to the water and not retained on the vessel or landed.

(2) Berried spiny lobsters may not be stripped, scraped, shaved, clipped, or in any other manner molested, in order to remove the eggs.

(b) *Pulling traps.* Traps may be pulled, tended, or opened only by the owner's vessel, unless the boat tending another person's traps has on board written consent of the trap owner. This restriction is not applicable to Authorized Officers.

§ 645.21 Size limitations.

(a) Spiny lobsters with a minimum carapace length of less than 3.5 inches (89 millimeters) must be returned immediately to the water unharmed.

(b) Spiny lobsters with a carapace length less than the 3.5-inch minimum size limit may be used as "attractants" in traps or pots, but may not be retained on the vessel or landed.

(c) Spiny lobsters must remain whole while being retained prior to landing. Tails may not be separated from the

carapace until the spiny lobsters have been landed.

§ 645.22 Gear limitations.

(a) *Degradable panel.* All traps or pots used for fishing in the FCZ must contain on any vertical side or on the top an opening no smaller in diameter than the throat or entrance of the trap or pot. The opening may be covered either by degradable netting made of any of the materials listed below, or by a cover made of any material and fastened to the fish trap or pot with any of the materials listed below:

(1) Untreated fiber of biological origin not more than three millimeters (approximately ⅛ inch) maximum diameter; includes, but is not limited to, tyre palm, hemp, jute, cotton, wool, or silk.

(2) Non-galvanized black iron wire not more than 1/16 inch (approximately 1.59 millimeters in diameter); that is, 16 gauge wire.

(b) *Prohibited gear or methods.* Spiny lobsters may not be taken with:

(1) Explosives, poisons, drugs, or other chemicals; or

(2) Spears, hooks, or similar devices.

§ 645.23 Specifically authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities that are otherwise prohibited by these regulations.

[FR Doc. 82-24345 Filed 8-31-82; 4:57 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 172
Friday, September 3, 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

1983 National Marketing Quota for Flue-cured Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of proposed determination.

SUMMARY: The Secretary of Agriculture is required by the Agricultural Adjustment Act of 1938, as amended, to proclaim by December 1, 1982, the amount of the national marketing quota for flue-cured tobacco for the 1983–84 marketing year. The public is invited to comment on the amount of the national marketing quota to be determined and other related factors, as set forth in this notice.

DATE: Comments must be received on or before October 26, 1982 in order to be assured of consideration.

ADDRESS: Send comments to the Director, Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington D.C. 20013, (202) 447–3391.

FOR FURTHER INFORMATION CONTACT: Robert Tarczy, Economist, Analysis Division, ASCS, USDA, Room 3741–South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5187. The Draft Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice 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 action has been classified "not major" since implementation of these determinations will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical 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 that this proposed notice applies to are: Title—Commodity Loan and Purchases; Number—10.051, as set forth 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 governments are informed of this action.

The Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), requires the Secretary to proclaim by December 1, 1982, marketing quotas for the 1983–84, 1984–85, and 1985–86 marketing years and determine and announce the amount of the national marketing quota, the national average yield goal, and the national acreage allotment for the 1983–84 marketing year. Since the 1982–83 marketing year is the last year of the three consecutive years for which marketing quotas previously proclaimed will be in effect for flue-cured tobacco, a referendum of farmers engaged in the 1982 production of flue-cured will be conducted within 30 days after proclamation of such national marketing quota, to determine whether they favor or oppose marketing quotas for such years.

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. The phrase "normal supply" is defined in Section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic use and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in Section 301(b)(11)(B) of the Act as the yearly average quantity produced and consumed in the United States during the ten marketing years immediately preceding the marketing year in which the quota must be announced (1982–83), adjusted for current trends in such consumption.

A "normal year's exports" is defined in Section 301(b)(12) of the Act as the yearly average quantity produced in and exported from the United States during the ten marketing years immediately preceding the marketing year in which the quota must be announced (1982–83), adjusted for current trends in such exports.

The reserve supply level for the 1982–83 marketing year was determined to be 2,568 million pounds. This was based on a normal year's domestic consumption of 570 million pounds and a normal year's exports of 532 million pounds (46 FR 60037). The proposed reserve supply level for the 1983–84 marketing year is 2,547 million pounds, based on a normal year's domestic consumption of 560 million pounds and a normal year's exports of 537 million pounds.

Section 301(b)(16)(B) of the Act defines "total supply" as the carryover at the beginning of the marketing year (July 1) plus the estimated production in the United States during the calendar year in which the marketing year begins. The total supply for the 1982–83 marketing year is 3,135 million pounds based on carryover of 2,145 million pounds and estimated marketings of 990 million pounds.

Section 317(a)(1) of the Act defines "national marketing quota" for any kind of tobacco for a marketing year as the amount of that kind of tobacco produced in the United States which the Secretary estimates will be used domestically and exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. The maximum downward adjustment is 15 percent of estimated domestic use and exports.

The amount of flue-cured tobacco produced and utilized domestically during the 1981–82 marketing year was 489 million pounds, and the amount exported was 523 million pounds, farm sales weight basis. The amount of the national marketing quota for the 1982–83

marketing year is 1,013 million pounds, based upon estimated domestic utilization of 540 million pounds and exports of 510 million pounds with a downward adjustment of 37 million pounds to make an orderly reduction in supplies. For the 1983–84 marketing year, utilization in the United States is estimated to be about 498 million pounds and exports are estimated to be about 525 million pounds. The total supply for the 1982–83 marketing year is 588 million pounds more than the proposed reserve supply level, but the amount of the adjustment desirable for maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level is still being considered. However, the national marketing quota is proposed to be within the range of 870 million to 1,025 million pounds.

Notwithstanding Section 317(a)(2) of the Act the No Net Cost Tobacco Program Act of 1982 requires that the national average yield goal for the 1983 marketing year equal the past five years' national average yield. The national average yield for the 1977–81 marketing years (the last 5 years) is 1,989 pounds per acre. Accordingly, the national average yield goal for the 1983 marketing year is 1,989 pounds per acre.

Section 317(a)(3) of the Act defines the "national acreage allotment" as the acreage determined by dividing the national marketing quota by the national average yield goal. The national acreage allotment for the 1982–83 marketing year was determined to be 546,386.19 acres (See 46 FR 60037).

A national acreage factor for apportioning the national acreage allotment to old farms will be determined by dividing the national acreage allotment, less the reserve for new farms and old farm corrections and adjustments, by the sum of the preliminary 1983 allotments for old farms prior to any adjustments for overmarketings, undermarketings, or reductions which are required to be made because of marketing quota violations.

The national acreage factor for the 1982–83 marketing year was 1.0 (See 46 FR 60037).

A national yield factor will be obtained by dividing the national average yield goal by the national average yield. The national average yield is computed by multiplying the preliminary farm yield for each farm by the acreage allotment determined for the farm prior to any adjustments for overmarketings, undermarketings, or reductions which are required to be made because of marketing quota violations, adding the products, and dividing the sum of the products by the national acreage allotment. The national yield factor for the 1982–83 marketing year was .9307 (46 FR 60037).

Section 317 (e) of the Act provides that for each marketing year for which acreage-poundage quotas are in effect a reserve may be established from the national acreage allotment in an amount equivalent to not more than one percent of the national acreage allotment to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which no tobacco was produced or considered produced during the immediately preceding five years.

A reserve of 200 acres was established for the 1982–83 marketing year (46 FR 60037). The establishment of such reserve is proposed for the 1983–84 marketing year.

Section 317 (g)(1) of the Act provides that if the Secretary, in his discretion, determines it is desirable to encourage the marketing of grade N2 tobacco, or any grade of tobacco not eligible for price support, in order to meet the normal demands of export and domestic markets, he may authorize the marketing of such tobacco without the payment of penalty or deduction from subsequent quotas to the extent of 5 percent of the marketing quota for the farm on which the tobacco was produced. This has never been authorized under the acreage-poundage program and is not proposed for the 1983–84 marketing year.

Proposed Determinations

The Secretary of Agriculture proposes to determine and announce with respect to the 1983–84 marketing year for flue-cure tobacco:

(1) A reserve supply level in the amount of 2,547 million pounds.

(2) A national marketing quota in an amount within the range of 870–1,025 million pounds.

(3) A national average yield goal of 1,989 pounds.

(4) A reserve from the national acreage allotment in an amount within a range of 100 acres-500 acres.

(5) The marketing of N2 or other grades of tobacco which is not eligible for price support, without payment of penalty or deduction from subsequent quotas, will not be authorized.

The national acreage allotment, the national acreage factor, and the national yield factor will be computed in accordance with a formula specified by statute using the final determinations which will be made with respect to items set forth in (1) through (4) above and do not involve administrative decisionmaking.

The Secretary of Agriculture also proposes to announce the date or period of the Referendum on Quotas for the 1983–84, 1984–85 and 1985–86 marketing years for flue-cured tobacco and whether the referendum should be conducted at polling places rather than by mail ballot as prescribed in 7 CFR Part 717.

All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741–South Building, 14th and Independence Avenue, S.W., Washington, D.C. 20013.

Signed at Washington, D.C. on August 29, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-24191 Filed 8-31-82; 11:37 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

Advisory Committee on Foreign Animal and Poultry Diseases; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases.

SUMMARY: The purpose of this document is to give notice of a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases. This will be the initial meeting of the Committee in 1982.

Place, date, and time of meeting: Room 743A Federal Building, United Stated Department of Agriculture, Hyattsville, Maryland 20783, October 13, 1982, from 9:00 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Harless McDaniel, Chief Staff Officer, Technical Support, APHIS, VS, Federal Building, Room 757, Hyattsville, Maryland 20783, 301–436–8087.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to advise the Secretary on means to prevent, suppress, control or eradicate an outbreak of foot-and-mouth disease or other destructive foreign animal or poultry diseases in the event such diseases should enter the United States.

The meeting is open to the public. Written statements concerning these matters may be filed with the Committee before or at the time of the meeting.

Written statements may be forwarded to Dr. Harless McDaniel, Chief Staff

Officer, Technical Support, APHIS, VS, Federal Building, Room 757, Federal Building, Hyattsville, Maryland 20783, 301–436–8087.

Dated: August 6, 1982.

James O. Lee, Jr.,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 82-24395 Filed 9-2-82; 8:45 am]

BILLING CODE 3410-34-M

Rural Electrification Administration

Alabama Electric Cooperative, Inc., Andalusia, Alabama; Proposed Loan Guarantee

AGENCY: Rural Electrification Administration, 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 in the approximate amount of $4 million to Alabama Electric Cooperative, Inc., of Andalusia, Alabama. This loan guarantee will be used to finance the development of a 3110 kW hydroelectric generating plant at the existing Gantt Dam, on the Conecuh River in Covington County, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. Charles R. Lowman, Manager, Alabama Electric Cooperative, Inc., P.O. Box 550, Andalusia, Alabama 36420.

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 engineering and economic feasibility studies and the proposed schedule for advances to the borrower of the guaranteed loan funds from Mr. Charles R. Lowman at the address given above.

In order to be considered, proposals must be submitted October 4, 1982 to Mr. Lowman. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Alabama Electric 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 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 27, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82-24152 Filed 9-2-82; 8:45 am]

BILLING CODE 3410-15-M

Intent To Conduct Public Scoping Meetings and Prepared Draft Environmental Impact Statement; Assistance to Associated Electric Cooperative, Inc.

AGENCY: Rural Electrification Administration (REA), USDA.

ACTION: Notice of Intent to Conduct Public Scoping Meetings and Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: REA intends to conduct public scoping meetings and prepare a DEIS in connection with possible REA financing assistance to Associated Electric Cooperative, Inc., (Associated) 2814 South Golden, P.O. Box 754, Springfield, Missouri 65801. The DEIS will discuss and evaluate the option of Associated developing and operating a coal-fired electric generating station. Associated is currently investigating sites in Atchison, and Carroll Counties, Missouri.

DATES: REA will conduct public scoping meetings as follows: October 6, 1982, at the Rockport Memorial Building, 417 South Main, Rockport, Missouri, at 7:30 p.m.; and October 7, 1982, at the Norborne High School Auditorium, Norborne, Missouri, at 7:30 p.m.

ADDRESS: All interested parties are invited to submit written comments to REA prior to, at, or within 30 days after the scoping meetings, in order for the comments to be considered in the preparation of the DEIS. Comments should be sent to Mr. Joe S. Zoller, Assistant Administrator—Electric, REA, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Dean Graham, Associated, Springfield, Missouri, 417–881–1204.

SUPPLEMENTARY INFORMATION: REA, in order to meet requirements of the National Environmental Policy Act (NEPA) of 1969, the Council on Environmental Quality Regulations and the REA Environmental Policies and Procedures, intends to prepare a DEIS and conduct public scoping meetings. This notice is in connection with possible REA financing assistance to Associated for the development of a coal-fired electric generating station and related transmission facilities. Associated proposes that the project be located in either Atchison or Carroll County, Missouri. These two sites were chosen from a total of eighteen sites originally under consideration within the State of Missouri.

Associated proposes to develop the chosen site to accommodate a total of 1200 MW of generated power. Initial development will be within the range of 400 to 600 MW of generated power. Alternatives to be considered by REA and Associated include, among other options: (1) No project; (2) load management; (3) purchase power from other utilities; (4) alternative sites for the proposed plant; (5) alternative fuels; (6) various unit sizes and (7) alternative transmission line corridors.

The public scoping meetings, to be conducted by a representative of REA, will be held to solicit public input and comments concerning, but not limited to, the nature of the proposed project, its possible location, alternatives, and any significant issues and environmental concerns that should be addressed in the DEIS.

REA's financing assistance to Associated will be subject to and contingent upon reaching satisfactory conclusions with respect to the environmental effects of the project. Final action will be taken only after EIS procedures required by NEPA have been satisfied.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: August 30, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-24407 Filed 9-2-82; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Mill Creek Watershed, Indiana; Deauthorization of Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Deauthorization of Federal Funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR

Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Mill Creek Watershed project, Hendricks, Morgan, Owen, and Putnam Counties, Indiana, effective on August 5, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Soil Conservation Service, Corporate Sq.–West, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Indiana 46224.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 26, 1982.

Robert L. Eddleman,

State Conservationist.

[FR Doc. 82–24119 Filed 9–2–82; 8:45 am]

BILLING CODE 3410–16–M

Golden Hills RC&D Area, Critical Area Treatment Measures, Iowa; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Golden Hills RC&D Area, Critical Area Treatment Measures, Cass, Fremont, Harrison, Mills, Montgomery, Page, Shelby and Pottawattamie Counties, Iowa.

FOR FURTHER INFORMATION CONTACT: William J. Brune, State Conservationist, Soil Conservation Service, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa, 50309, telephone 515–284–4260.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that these measures will not cause significant local, regional, or national impacts on the environment. As a result of these findings, William J. Brune, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for these measures.

These measures are for Critical Area Treatment. The planned works of improvement include small grade stabilization structures; terraces; diversions; sediment and water control basins, critical area planting; debris basins; streambank protecton; grassed waterways; and fencing.

The notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of a FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting William J. Brune.

No administrative action on implementation of the proposal will be taken until October 4, 1982.

Dated: August 27, 1982.

William J. Brune,

State Conservationist,

[FR Doc. 82–24132 Filed 9–2–82; 8:45 am]

BILLING CODE 3410–16–M

Little Rock Creek Subwatershed of Chunky River Watershed; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Little Rock Creek Subwatershed, Newton and Neshoba Counties, Mississippi.

FOR FURTHER INFORMATION CONTACT: Billy C. Griffin, State Conservationist, Soil Conservation Service, Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269, telephone 601–960–5205.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local regional, or national impacts on the environment. As a result of these findings, Billy C. Griffin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood control. The planned works of improvement includes four floorwater retarding dams.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy request at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Billy C. Griffin.

No administrative action on implementation of the proposal will be taken until October 4, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 23, 1982.

Billy C. Griffin,

State Conservationist.

[FR Doc. 82–24118 Filed 9–2–82; 8:45 am]

BILLING CODE 3410–16–M

CENTRAL INTELLIGENCE AGENCY

Conduct of Employees; Waiver of Post-Employment Conflict of Interest

Section 737.17 of the regulations implementing the Ethics in Government Act of 1978 (Pub. L. 95–521, hereinafter the "Act") authorizes the Director of Central Intelligence to waive the post-employment restrictions of the Act for a former employee with outstanding qualifications in a scientific, technological or other technical discipline in connection with a particular matter which requires such qualifications, when it has been determined that such a waiver would serve the national interest.

It has been demonstrated to my satisfaction that Leslie C. Dirks, who has recently vacated the position of Deputy Director for Science and Technology, has outstanding scientific and technical qualifications concerning the design and development of certain intelligence programs, and that his continued participation in such Agency programs in this regard will further the national interest.

Mr. Dirks received the Distinguished Intelligence Medal in 1977 and the National Security Medal in 1979 in recognition of his accomplishments in this regard. In addition to designing and implementing various Agency programs,

Mr. Dirks has served as the manager of these programs from their inception to the date of his resignation from the Agency.

Because of Mr. Dirk's knowledge and insight into various of the Agency's technical programs, the Agency wishes to continue to utilize his services with respect to these programs during his service with Raytheon Corporation, Lexington, Masshachusetts. Mr. Dirks' continued participation in these programs will be undertaken in two separate capacities. First, the Agency wishes to engage Mr. Dirks as a consultant to benefit directly from his scientific expertise with respect to those Agency programs which he has designed and developed or which are otherwise within his field of technical knowledge. Second, Mr. Dirks in his new position at Raytheon Corporation will be involved in research and development which may be relevant to Agency technical and scientific programs. Given Mr. Dirks' experience and training and his role in developing various Agency scientific and technical programs, he is qualified to identify and assess how developing technologies can be effectively utilized in various ongoing and proposed Agency programs.

I therefore certify that the Agency's continued use of Leslie C. Dirks in the manner described above will result in significant benefits to the United States Government and is in the national interest, and that pursuant to 5 CFR 737.17, after consultation with the Director, Office of Government Ethics, I hereby waive the provisions of subsections (a), (b), and (c) of Title 18 U.S.C. 207 which may be applicable to Mr. Dirks by reason of his former employment with the Central Intelligence Agency.

Dated: August 27, 1982.

William J. Casey,

Director of Central Intelligence.

[FR Doc. 82-24285 Filed 9-1-82; 8:45 am]

BILLING CODE 6310-02-M

Privacy Act of 1974; Proposed Amendment of the Statement of General Routine Uses of the Systems of Records

AGENCY: Central Intelligence Agency.

ACTION: Final notice.

SUMMARY: This amendment adds one new general routine use and revises four of the existing six general routine uses and is applicable to all of the CIA systems of records (last published in full text in the **Federal Register**, Vol. 40, No. 168, p. 39778). With the exception of the general routine use number 1, the amendment makes technical revisions in four of the remaining six uses.

A statement of reasons for the amendments being made to the routine use statements is set forth in the notice published in the **Federal Register**, Vol. 47, No. 85, p. 18943 (May 3, 1982).

EFFECTIVE DATE: July 2, 1982.

FOR FURTHER INFORMATION CONTACT: Emilio Jaksetic, Phone: (703) 351-7801.

SUPPLEMENTARY INFORMATION: For the reasons set out in the preamble and pursuant to Privacy Act of 1974 (5 U.S.C. 552a), this Agency amends the statement of general routine uses as stated below:

The following routine uses apply to, and are incorporated by reference into each system of records maintained by the CIA:

1. A record from this system of records may be disclosed as a routine use, to a federal, state or local agency, other appropriate entities or individuals, or, through established liaison channels, selected foreign governments whenever such disclosure is necessary or appropriate to enable the Central Intelligence Agency to carry out its responsibilities under any federal statute, Executive order, national security directive, or any regulations or procedures promulgated pursuant thereto:

2. In the event that a system of records maintained by the Central Intelligence Agency to carry out its functions indicates, or relates to, a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be disclosed, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with the responsibility to take appropriate administrative action or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

3. A record from this system of records may be disclosed as a routine use, to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Central Intelligence Agency decision concerning the hiring or retention of an employee, the issuance of a security clearance or special access, or the performance of the Agency's acquisition functions.

4. A record from this system of records may be disclosed as a routine use, to a federal, state, or local agency, or other appropriate entities or individuals, in connection with the hiring or retention of an employee, the issuance of a security clearance or special access, the reporting or an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to the entity's decision on the matter.

5. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing parties or their counsel or other representatives in the course of settlement negotiations, and disclosures made pursuant to statutes or regulations governing the conduct of such proceedings.

6. A record from this system of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation, as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

7. A record from a system of records may be disclosed, as a routine use, to NARS (GSA) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Harry E. Fitzwater,

Deputy Director for Administration.

[FR Doc. 82-24284 Filed 9-2-82; 8:45 am]

BILLING CODE 6310-02-M

CIVIL AERONAUTICS BOARD

[Docket 40771]

American World Airways Fitness Investigation; Postponement of Hearing

In accordance with a notice issued by Chief Administrative Law Judge Elias C.

Rodriguez, dated August 13, 1982, the hearing in the above-entitled proceeding, which was assigned to be held on September 13, 1982, at 9:30 a.m. (local time), in Room "A", 1875 Connecticut Avenue, N.W., Washington, D.C., will be postponed until September 29, 1982 at 9:30 in Room 1027, Main Universal Building, 1825 Connecticut Ave., Washington, D.C.

Dated at Washington, D.C., August 31, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-24289 Filed 9-2-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40827]

Dallas/Fort Worth-London Case; Hearing

Notice is hereby given that a hearing in the above-titled matter is assigned to commence on September 28, 1982, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., August 30, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82-24290 Filed 9-2-82; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended August 27, 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. 23, 1982	40941	Eastern Air Lines, Inc., Miami International Airport, Miami, Florida 33148. Conforming Application of Eastern Air Lines, Inc. to the Application of Air Florida, Inc. in docket 40881, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its certificate of public convenience and necessity for Route 165 so as to authorize service between the terminal point Miami, Florida and the coterminal points Madrid, Spain and Tel Aviv, Israel. Answers may be filed by September 7, 1982.
Do	40942	Arrow Airways, Inc., c/o Lawrence D. Wasko, Seamon, Wasko & Ozment, 1211 Connecticut Avenue, N.W., Suite 300, Washington, D.C. 20036. Conforming Application of Arrow Airways, Inc. to the Application of Air Florida, Inc. in Docket 40881, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity to engage in scheduled foreign air transportation of persons, property and mail as follows: Between the terminal point Miami, Florida, and the coterminal points Madrid, Spain and Tel Aviv, Israel. Answers may be filed by September 7, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-24288 Filed 9-2-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

[Docket Number 2825-162]

New Procedures for the Interface Standards Exclusion List

In a notice published in the **Federal Register** on March 19, 1979 (44 FR 16466), the National Bureau of Standards (NBS) announced the establishment of exclusion criteria and procedures for developing and maintaining an Exclusion List pertaining to Federal Information Processing Standards Publication 60 (which has since been redesigned as 60-1), Input/Output (I/O) Channel Interface; Federal Information Processing Standards Publication 61, Channel Level Power Control Interface; and Federal Information Processing Standards Publication 62, Operational Specifications for Magnetic Tape Subsystems. The Exclusion List also pertains to Federal Information Processing Standards Publication 63, Operational Specifications for Rotating Mass Storage Subsystems, approval of which by the Secretary of Commerce was announced in the **Federal Register** on August 27, 1979 (44 FR 50078).

The pertinent provision of FIPS PUB 60-1 relating to the Exclusion List is as follows:

This standard is applicable to the acquisition of all ADP systems and peripheral equipment for those systems except those minicomputer, microcomputer, and other small scale systems which are specifically excluded by the National Bureau of Standards (NBS). A list of such currently excluded systems and the current criteria for exclusion will be developed and maintained by NBS and will be periodically distributed to all Federal agencies and be publicly available upon request.

Experience with the procedures set forth in the March 19, 1979, notice, and reiterated in subsequent notices, shows that undue delay occurs between the time NBS first becomes aware of a candidate system's qualifications for Exclusion List and the time it is finally placed on the list. In order to facilitate prompt Federal agency access to all properly excludable systems at the earliest opportunity, we are adopting new and faster procedures which supersede those set forth in the March 19, 1979, and subsequent notices.

Henceforth, when review and analysis by NBS of a candidate system for addition to the list show that it clearly complies with the exclusion criteria appearing below, it will be added to the Exclusion List. Similarly, if revision and analysis of a candidate system for removal from the list, including any information we may receive from the system's manufacturer, clearly show that the system no longer complies with the exclusion criteria, it will be removed from the Exclusion List.

A primary concern in excluding smaller systems from the requirement to conform with these standards is the cost of using such a complex interface relative to the cost of these smaller systems. Therefore, the exclusion criteria are based on the projected cost to the Government of ADP systems for which these standards are applicable. Accordingly, *ADP systems having a Government purchase price of less than $400,000 in their maximum normally employed configuration are to be incorporated in the Exclusion List.*

In this context, the "maximum normally employed configuration" includes all system hardware in a "tightly-coupled" system usually

enclosed within a single room, but does not include modems or remote terminals. Only those terminals necessary to serve as operator's console(s) are included in the "maximum normally employed configuration." The cost of operating system software is to be included in the system purchase price, but not that of language processors, applications software, and other system software such as data base management systems.

It should be noted that, if a system is on the Exclusion List, all configurations of that system—not just the "maximum normally employed configuration"—are exempt from conformance with these interface standards. If, in the process of procuring computer systems or peripheral, a Federal agency receives a bid for a system on the Exclusion List and if that system is selected for acquisition, then compliance with these Federal interface standards is not required. The same holds true for the enhancement of previously installed systems which are on the Exclusion List.

Use of this type of criteria is intended to simplify the exclusion process with regard to both its maintenance by NBS and its use by Federal agencies and vendors when planning for future ADP systems. The $400,000 threshold will be used by NBS in updating the Exclusion List taking into account all technical, economic, and equipment availability information known to NBS staff.

NBS sends copies of the current Exclusion List on a regular basis to those persons who are on a mailing list of vendors, Federal agencies, and other interested parties which NBS maintains. Parties on the mailing list will also be sent notices of additions to or deletions from the Exclusion List as they occur between updates of the entire list. Those who wish to be included on the mailing list should send a written request to the address noted below for submission of comments.

Experience has shown the analysis of candidate systems to be a straight forward process which does not require public comment. The new procedures explained above will be less burdensome upon both the manufacturers of such computer systems and Federal agencies which wish to buy them because it will enable placement of qualifying systems upon the Exclusion List in a much shorter period of time. Accordingly, the changes in procedure explained above take effect upon publication of this notice in the **Federal Register.**

Comments from interested parties specifically identifying candidate systems which should be added to or removed from the Exclusion List have been and continue to be especially encouraged. Such comments should be submitted in writing to the Director, ICST, Attention: Interface Standards Exclusion List, National Bureau of Standards, Washington, D.C. 20234

Dated August 26, 1982.

Ernest Ambler,

Director.

[FR Doc. 82-24313 Filed 9-2-82; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administrator

National Marine Fisheries Service; Issuance of Permit

On July 29, 1982, Notice was published in the **Federal Register** (47 FR 32762), that an application had been filed with the National Marine Fisheries Service by the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, for a permit to take up to 150 harbor seals (*Phoca vitulina*) for the purpose of scientific research.

Notice is hereby given that on August 30, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Scientific Research Permit to the Southwest Fisheries Center for the above taking subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: August 30, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-24382 Filed 9-2-82; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Current Membership of Departmental Performance Review Board

This notice announces the current membership of the Departmental Performance Review Board (PRB) in the Department of Commerce. The purpose of the Department PRB is to review the performance of appointing authorities and their immediate deputies who are in the SES and other SES members whose ratings are initially prepared by their respective appointing authorities.

Departmental PRB members are appointed for a two year term expiring August 31, 1984. The list of individuals eligible to serve on the Departmental PRB is as follows:

C. Louis Kincannon, Deputy Director, Bureau of the Census
Robert P. Gajdys, Director, Office of Personnel, National Oceanic and Atmospheric Administration
Robert F. White, Group Director, Patent and Trademark Office
Allan H. Young, Deputy Director, Bureau of Economic Analysis
Kenneth M. Brown, Deputy Director, Bureau of Industrial Economics
Saul Padwo, Director, Office of Trade Information Services, International Trade Administration
Marjory E. Searing, Director, Office of International Sectoral Policy, International Trade Administration
Charles W. Coss, Director, Office of Public Works, Economic Development Administration
Edward M. Levin, Jr., Director, Office of Chief Counsel, Economic Development Administration
James Sexton, Jr., Assistant Director for Planning, Budget and Evaluation, Minority Business Development Agency
Herbert S. Becker, Assistant Director for Research and Information, Minority Business Development Agency
Shirley Kallek, Associate Director for Economic Fields, Bureau of the Census
Guy W. Chamberlin, Jr., Director, Office of Administration, National Bureau of Standards
Edward L. Brady, Associate Director, International Affairs, National Bureau of Standards
Herbert C. Wamsley, Director, Trademark Examining Operation, Patent and Trademark Office
Lucy Falcone, Senior Advisor to the Chief Economist, Office of Under Secretary for Economic Affairs
Peter B. Hale, Director, Office of the European Community, International Economic Policy, International Trade Administration
Joseph C. Brown, Deputy Director of Personnel, Office of the Secretary
Katherine M. Bulow, Special Assistant to the Assistant Secretary for Administration
Otto J. Wolff, Special Assistant to the Secretary of Commerce
Helen W. Robbins, Executive Assistant to the Secretary of Commerce
Michael J. Bayer, Associate Deputy Secretary
H. Stephen Halloway, Associate General Counsel for Legislation and Regulation, Office of General Counsel
John L. Evans, Deputy to the Deputy Assistant Secretary for Import Administration, International Trade Administration
Melinda L. Carmen, Director, Office of Investigations, Trade Administration, International Trade Administration

Vincent F. DeCain, Deputy to the Deputy Assistant Secretary for Export Administration, International Trade Administration
Eugene K. Lawson, Deputy Assistant Secretary for East Asia, International Trade Administration
Timothy R. Keeney, Deputy General Counsel for Policy, Research, Services and Coastal Zone, National Oceanic and Atmospheric Administration
John K. Snyder, Jr., Deputy Under Secretary for Travel and Tourism
Susan G. Stuebing, Deputy Assistant Secretary, National Telecommunications and Information Administration

Persons desiring any further information about the Departmental PRB or its membership may contact Mr. Raymond D'Antonio, Executive Secretary to the Departmental Performance Review Board, Office of Personnel, Herbert C. Hoover Building, Room 5119, Washington, D.C. 20230, (202) 377–4534.

Dated: September 1, 1982.

Raymond D'Antonio,

Executive Secretary, Departmental Performance Review Board, U.S. Department of Commerce.

[FR Doc. 82-24380 Filed 9-2-82; 8:45 am]

BILLING CODE 3510-BS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the People's Republic of China To Include a Review of Trade in Categories 333, 345, 443 and 635

August 31, 1982.

Pursuant to paragraph 8 of the bilateral textile agreement of September 17, 1980 between the Governments of the United States and the People's Republic of China, the United States has requested consultations with the Government of the People's Republic of China with respect to categories 333 (Men's and Boys' Suit-Type Cotton Coats), 345 (Cotton Sweaters), 443 (Men's and Boys' Wool Suits), and 635 (Women's, Girls', and Infants' Coats of Man-Made Fibers). It is anticipated these consultations will be held in the near future.

The purpose of this notice is to advise that if no solution is agreed upon between the two governments within 90 days of the request for consultations, entry and withdrawal from warehouse for consumption of textile products in Categories 333, 345, 443 and 635, produced or manufactured in the People's Republic of China and exported to the United States during the twelve-month period beginning on November 26, 1982 and extending through November 25, 1983 may be restrained at the following levels:

Category	12-mo. level (dozen)
333	41,538
345	59,448
443	7,271
635	331,690

The Government of the United States reserves the right to invoke import controls on these categories during the 90-day consultation period at the following levels, as defined in the bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 17, 1980, as amended, with the Government of the People's Republic of China:

[Aug. 28 to Nov. 25, 1982]

Category	90-day level (dozen)
333	12,924
345	19,159
443	3,393
635	116,052

Any party wishing to comment or provide data or information regarding the treatment of Categories 333, 345, 443 and 635 under the agreement with the People's Republic of China, or on any other aspect thereof, or to comment on domestic production or availability of textiles and apparel included in these categories, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Acting Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20239, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreements or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553 (a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-24312 Filed 9-2-82; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1982 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: September 3, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Serverly Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On February 22, 1982, June 11, 1982, and July 9, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 7720, 47 FR 25399, and 47 FR 29870) of proposed additions to Procurement List 1982, November 12, 1981 (46 FR 55740).

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities and services are hereby added to Procurement List 1982:

Class 2540

Cushion Seat, Vehicular
2540–00–808–3811

Class 7220

Mat, Floor
7220–01–023–9487
7220–01–023–9489
7220–01–024–5997
7220–01–023–9496
7220–01–023–9490
7220–01–023–9491
7220–01–023–9493

7220-01-023-9494
7220-01-023-9495

Class 8465

Cover, Field Pack, Camouflage
8465-01-103-0659

SIC 7349

Janitorial Service, Federal Building-U.S. Courthouse, 15 Lee Street, Montgomery, Alabama
Janitorial Service, USDA Forest Service, Coeur d'Alene Nursery, 3600 Nursery Road, Coeur d'Alene, Idaho
Janitorial/Mechanical Maintenance Service, Federal Building, U.S. Post Office, 200 East Washington Street, Greenwood, Mississippi

SIC 7369

Food Service Attendant, Consolidated Enlisted Dining Facility, Building 61, Fort McPherson, Georgia

C. W. Fletcher,

Executive Director.

[FR Doc. 82-24296 Filed 9-2-82; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1982; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1982 services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 6, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square Building 5, 1755 Jefferson Davis Highway, Suite 1107, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following services to Procurement List 1982, November 12, 1981 (46 FR 55740):

SIC 7349

Janitorial Service, Federal Building and Courthouse, 113 St. Joseph Street, GSA Motor Pool and Parking Garage, St. Joseph Street, Federal Building, 109 St. Joseph Street, Mobile, Alabama
Janitorial/Custodial, Federal Building, 536 South Clark, Chicago, Illinois
Janitorial/Custodial, Federal Supply Service Depot, 4100 West 76th Street, Chicago, Illinois
Janitorial Service, Post Office and U.S. Courthouse, 601 Broadway, Louisville, Kentucky
Janitorial Service, John W. McCormack Post Office and U.S. Courthouse, Post Office Square, Boston, Massachusetts
Janitorial Service, U.S. Customs House, 8 McKinley Square, Boston, Massachusetts
Janitorial Service, U.S. Post Office and U.S. Courthouse, 245 East Capital Street, Jackson, Mississippi
Janitorial/Custodial, Federal Building and U.S. Courthouse, 316 North 26th Street, Motor Pool Building, 421 North 24th Street, Billings, Montana
Janitorial/Custodial Federal Building, 220 Seventh Street, NE, Charlottesville, Virginia
Janitorial Service, Richard H. Poff Federal Building, 210 Franklin Road, S.W., Roanoke, Virginia
Janitorial Service, Harley O. Staggers Federal Building, 75 High Street, Morgantown, West Virginia
Janitorial/Related Service, New Border Station Complex, Administration Building, Champlain, New York
Janitorial/Minor Maintenance Service, Federal Building, U.S. Post Office, U.S. Courthouse, 401 N. Patterson Street, Valdosta, Georgia

SIC 7399

Operation of USDA Forms and Publications Storage and Distribution Warehouse, Department of Agriculture, Central Supply Forms Warehouse, 3702 Ironwood Place, Landover, Maryland

C. W. Fletcher,

Executive Director.

[FR Doc. 82-24297 Filed 9-2-82; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1982; Proposed Additions and Deletion

Correction

In FR Doc. 82-22803 beginning on page 36467 in the issue of Friday, August 20, 1982, make the following correction:

On page 36468, in the seventh line from the top of the first column, "Cutodial" should have read "Custodial".

BILLING CODE 1505-01-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Deletion of New Orleans Commodity Exchange Rule

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed deletion of contract market rule.

SUMMARY: The New Orleans Commodity Exchange ("NOCE" or "Exchange") has submitted a proposal to delete Rule 700.03(a), which requires regular warehouses to accept commodities for delivery on Exchange contracts when all warehouse space is not otherwise filled or contracted. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before October 4, 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 Orleans Commodity Exchange, Rule 700.03(a).

FOR FURTHER INFORMATION CONTACT: Robert Clark, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254-7303.

SUPPLEMENTARY INFORMATION: Rule 700.03(a) requires NOCE regular warehouses to accept commodities for delivery on Exchange contracts when all warehouse space is not otherwise filled or contracted. With the deletion of Rule 700.03(a), NOCE regular warehouses will no longer be required to accept commodities for delivery on futures contracts when space in the warehouse is not already filled or contracted.

According to the Exchange, allowing warehousemen discretion in the use of their space will eliminate the threat of withdrawal from regularity by some warehouses, and the possibility that other warehouses will not initially apply for regularity. Furthermore, the NOCE indicates that the existence of the rule may encourage commodity producers, particularly rough rice producers, to use the futures markets as a primary means to dispose of their crops, rather than as a hedging mechanism.

The proposed deletion of NOCE Rule 700.03(a) would be applicable to all currently listed contracts as well as newly listed contracts immediately after Commission approval.

In accordance with Section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (Supp. IV 1980), the Commission

has determined that the proposed deletion of Rule 700.03(a) is of major economic significance. Accordingly, Rule 700.03(a) is printed below, using bracketing to indicate deletions:

700.03(a) Duties of Warehouseman—

[To accept for delivery on Exchange contracts those commodities for which the warehouse has been declared regular, provided the persons delivering such commodity to the warehouse certifies that the commodity is of approved origin and that all inbound freight and other charges are paid or guaranteed and all space in such warehouse is not already filled or contracted.]

Other materials submitted by the NOCE in support of the proposed rules 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, N.W., Washington, D.C. 20581, by October 4, 1982. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on August 31, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-24418 Filed 9-2-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Cancellation of Intent To Prepare a Draft Environmental Impact Statement (DEIS) for National Hydroelectric Power Resources Study (NHS)

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Cancellation of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: The U.S. Army Corps of Engineers, Water Resources Support Center, Institute for Water Resources has cancelled its intent to prepare a draft environmental impact statement for the National Hydroelectric Power Resources Study (NHS). The NHS final report identifies about 2000 potential best candidate sites for possible future planning studies. The NHS report does not contain any proposals or recommendations for Federal development of hydroelectric power at these sites or any Federal action which would significantly affect the quality of the human environment. The environmental assessment prepared as part of the NHS examined the generic environmental impacts of different types of hydroelectric power facilities, evaluated potential environmental impacts by region based on NHS estimates of potential future sites, and assessed the existing environmental planning and legislation affecting hydroelectric power development. The NHS Environmental Assessment found that there were no overriding impacts that categorically limit future hydroelectric power development. Further, more detailed studies will be required to reach specific conclusions about specific design alternatives, and environmental impacts associated with each individual alternative. This cancellation supersedes the 27 August 1981 notice of intent to prepare a draft environmental impact statement for the National Hydroelectic Power Resources Study (46 FR 43230).

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 82-24231 Filed 9-2-82; 8:45 am]

BILLING CODE 3710-08-M

Cancellation of Intent To Prepare a Draft Environmental Impact Statement for the National Waterways Study

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Cancellation of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: The U.S. Army Corps of Engineers, Water Resources Support Center, Institute for Water Resources has cancelled its intent to prepare a DEIS for the National Waterways Study (NWS). The NWS final report contains forecasts of waterway traffic and an evaluation of the capability of the waterway system to handle projected traffic based on six sets of assumptions under peacetime conditions and one national defense mobilization scenario. The implications of various funding levels and management strategies were evaluated. Finally, a framework for a waterway system which would maintain waterway capability is developed. The NWS report does not contain any proposals or recommendations for any projects or any other Federal action which would significantly affect the quality of the human environment.

The generic environmental implications of the actions which may be taken to maintain waterway capability and to add capacity are described in the Environmental Assessment. Further, more detailed project studies will be required to reach specific conclusions about specific design alternatives and environmental impacts associated with each individual alternative.

This cancellation supersedes the 26 August 1981 notice of intent to prepare a draft environmental impact statement for the National Waterways Study (46 FR 43076–43077).

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 82-24230 Filed 9-2-82; 8:45 am]

BILLING CODE 3710-08-M

Defense Intelligence Agency

Privacy Act of 1974; Establishment of a New System of Records

AGENCY: Defense Intelligence Agency, DOD.

ACTION: Establishment of a new system of records.

SUMMARY: The Defense Intelligence Agency proposes to establish a new system of records subject to the Privacy Act of 1974.

DATES: This new system will become effective October 4, 1982.

ADDRESSES: Any comments should be addressed to the system manager identified in the notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Helen E. Shuford, Privacy Act Office (RTS-1B), Defense Intelligence Agency, B112 Cafritz Building, Washington, D.C. 20301. Telephone: 202/695-9368.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency inventory of notices for systems of records subject to the Privacy Act of 1974; Title 5, United States Code, Section 552a (Pub. L. 93-579; 88 Stat. 1896, *et seq.*) was published in the **Federal Register** at:

FR Doc. 82-647 (46 FR 2544) January 18, 1982.

A new system report as required by 5 U.S.C. 552a(o) was submitted on July 26, 1982. Portions of this system may be

exempt from certain provisions of the Act under 5 U.S.C. 552a(k)(5).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

August 30, 1982

L-DIA 0740

SYSTEM NAME:

Attache Special Project (ASP) and Companion Channel Information System

SYSTEM LOCATION:

Defense Intelligence Agency, Washington, D.C. 20301

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DIA personnel that are cleared for ASP material.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain CC Security Agreement, Personnel Data Sheet, Personal History Statement, ASP Security Agreement and Companion and ASP Security Termination Statements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority of Title 10, United States Code, Section 133d, the Secretary of Defense has established the Defense Intelligence Agency as a separate agency of the Department of Defense under his direction and charged the Director of Defense Intelligence Agency with the responsibility of maintaining necessary and appropriate records. (See Department of Defense Directive 5105.21).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To perform all administrative functions necessary to determine initial and continued eligibility for and control of access to classified information in DIA facilities and those elements mandated to the Director, DIA, for ASP material and Companion Channel access. Information will be disclosed to such other Federal agencies, state and local governments, as may have a legitimate use for such information and which is consistent with the conditions of reasonable expectations of use and disclosure under which the information was provided, collected or obtained.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintanied in file folders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Records are maintained in a building protected by security guards and are stored in vaults, safes, or locked cabinets. They are accessible only to authorized personnel all of whom are properly screened, cleared and trained in the protection of privacy information.

RETENTION AND DISPOSAL:

Files are retained until the individual's association with DIA ceases or access to ASP material and the Companion channel ceases and are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Vice Director for Collection Management, Defense Intelligence Agency, Washington. D.C. 20301.

NOTIFICATION PROCEDURES:

To determine whether this system of records contains information pertaining to yourself, you must submit a written request to: The Freedom of Information Office (RTS-1B), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth.

RECORD ACCESS PROCEDURES:

All requests for copies of your records must be in writing. Include in your request your full name, current address, telephone number and social security number or date of birth. Also, state that whatever cost is acceptable or acceptable up to a specified limit. Requests can be mailed to: RTS-1B, Defense Intelligence Agency, Washington, D.C. 20301.

CONTESTING RECORD PROCEDURES:

An individual who disagrees with the initial determination concerning his or her request, may file a request for administrative review of that determination.

These requests must be in writing and should be filed within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasins for his or her disagreement with the initial determination and provide any additional material to support his or her appeal. Requests can be mailed to: RTS-1B, Defense Intelligence Agency, Washington, D.C. 20301.

RECORD SOURCE CATEGORIES:

By the individual, other Federal agencies, firms contracted to the DoD and Agency officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under Title 5 U.S.C. 552a(k)(5). For additional information see Agency rules contained in 32 CFR Part 292a (DIA Regulation 12-12).

[FR Doc. 82-24369 Filed 9-2-82; 8:45am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Vocational Education; Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Public Meeting of the Council and its Legislative, Futures, and Ad Hoc Committee on the Handicapped Committees.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Advisory Council on Vocational Education, and its committees. It also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATES: September 22 and 23, 1982.

ADDRESS: The Capital Holiday Inn, 550 C Street SW., Washington, D.C.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The meetings of the National Advisory Council on Vocational

Education and its Committees are open to the public. The proposed Agenda are as follows:

Wednesday, September 22, 1982

9:00–11:30 and 1:30–4:30

Legislative Committee—The Clark Room Discuss Committee Goals and Work Plan
Futures Committee—Room to be Announced Discuss Committee Goals and Work Plan
Ad Hoc Committee on the Handicapped—Room to be Announced
Discuss Committee Tasks and Work Plan

Thursday, September 23, 1982

National Council in Regular Session, 9:00 A.M.–5:00 P.M.—Venus/Saturn Room, Committee Reports
Review of Council Policies and Procedures Manual
Discussion of Over-all Council Work Plan for FY '83

Records are kept of the Council's proceedings, and are available for public inspection at the office of the National Advisory Council on Vocational Education from 9:00 A.M. to 5:00 P.M., 425—13th Street NW, Suite 412, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Virginia Solt, NACVE staff, at above address. Telephone (202) 376–8873.

Signed at Washington, D.C., on August 31, 1982.

George Wallrodt,

Acting Executive Director.

[FR Doc. 82–24221 Filed 9–2–82; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Establishment of Performance Review Board, Names of Board Members, and Schedule for Awarding Senior Executive Service Bonuses

Section 4314(c) of title 5 United States Code (as amended by the Civil Service Reform Act of 1978) requires that the Department of Energy establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Board(s) to review, evaluate, and make a final recommendation on performance appraisals assigned to Departmental members of the Senior Executive Service. The performance Review Board established for the Department of Energy also makes written recommendations to the Executive Personnel Board or the Chairman, Federal Energy Regulatory Commission, regarding Senior Executive Service performance bonuses, awards, and performance-related actions.

The Office of Personnel Management guidelines require that each agency publish a notice in the **Federal Register** of the agency's schedule for awarding Senior Executive Service bonuses at least 14 days prior to the date on which the awards will be paid. The Department of Energy intends to ward bonuses for the performance rating cycle of August 1, 1981, through July 31, 1982, with payouts scheduled by September 30, 1982.

Section 4314(c)(4) of title 5 United States Code requires that notice of appointment of Performance Review Board members be published in the **Federal Register.** The following persons have been appointed to serve on the performance review board standing register for the Department of Energy:

Stephen L. Jones
James V. De Francis
Michael T. Kelly
Constance C. Stuart
Matthew T. Abruzzo
Gordon W. Harvey
Eric J. Fygi
Thomas C. Newkirk
Stephen H. Greenleigh
J. Hunter Chiles
Edward J. Hanrahan
William J. Silvey
Richard H. Williamson
George J. Bradley, Jr.
Salvan D. Cianella
Bethel B. Larey
Milton C. Lorenz
James W. Workman
Albert H. Linden, Jr.
John Shewmaker
Jimmie L. Petersen
John C. Geidl
Yvonne N. Bishop
Wray Smith
Thomas Mann
Richard T. Tedrow
Thomas L. Wieker
Howard S. Coleman
Maxine Savitz
Robert L. San Martin
Melvin Chioqioji
Linda R. Gregory
Robert J. Cross
Peter T. Johnson
Harry Geisinger
Richard B. Risk, Jr.
Robert L. McPhail
Donald L. Bauer
Joseph O. Cook
Jeremiah E. Walsh
Augustine A. Pitrolo
Sun W. Chun
Barton R. House
Robert W. Davies
Richard D. Furiga
Ronald L. Winkler
Robert H. Bauer
Charles E. Williams
Robert J. Hart
Alex G. Fremling
Joe B. Lagrone
Raymond G. Romatowski
Mahlon E. Gates
Robert Morgan
Thomas A. Dillon
Gordon L. Chipman
Franklin E. Coffman
William R. Voight, Jr.
Troy E. Wade
James W. Culpepper
Francis Gilbert
James S. Kane
George Y. Jordy
Richard Kropschot
James E. Leiss
Antoinette Joseph
John F. Clark
J. Ronald Young
Charles W. Edington
Harry L. Peebles
J. Merle Schulman
K. Dean Helms
Cleo N. Mitchell
Gene K. Fleming
Ronald S. Schwartz
John W. Polk
Nathaniel H. Pierson
Aaron D. Edmondson
Elizabeth E. Smedley
Carl W. Guidice
Gordon M. Takeshita
Berton J. Roth
David J. Ball
Edwin R. Itnyre
David G. Newman
Vincent E. Mason II
William G. McDonald
Lawrence R. Anderson
Charles A. Moore
Kenneth M. Pusateri
Charles McManus
Steven Melton
Jerome Feit
Barbara Weller
Lynne Church
James Rogers
Bernard Wexler
Maynard Ugol
Loren H. Drennan
Russel E. Faudree, Jr.
Morris R. Fitzgerald
Robet E. Cackowski
Bernard B. Chew
Robert C. Means
Kenneth A. Williams
Louis W. Mendonsa
Joseph J. Solters
Robert J. Szekely
Howard Kilchrist
Raymond A. Beirne
Leon J. Slavin
Randolph E. Mathura
Andrew W. Battese

Issued in Washington, D.C., on August 30, 1982.

William S. Heffelfinger,

Assistant Secretary, Management and Administration.

[FR Doc. 82–24218 Filed 9–2–82; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Consolidated Edison Co. of New York, Inc.; Certification of Eligible Use of Natural Gas to Displace Fuel Oil

[ERA Docket No. 82–CERT–014]

On August 16, 1982, Consolidated Edison Company of New York, Inc. (Con Edison), filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for certification of an eligible use of approximately 1.8 billion cubic feet of natural gas for a period of sixty (60) days from initial delivery, which is estimated to displace approximately 287,600 barrels of residual fuel oil (0.3 percent sulfur), approximately 12,600 barrels of kerosene (0.1 percent sulfur), and approximately 2,200 barrels of No. 2 fuel oil (0.2 percent sulfur) during the sixty (60) day period at its Astoria, East River, Narrows, Ravenswood, Waterside, and 60th Street steam and electric generating facilities in New York City. The eligible seller of the natural gas is Cabot Corporation, 1400 Charleston National Plaza, P.O. Box 1473, Charleston, West Virginia 25325. The gas will be transported by Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001, and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., P.O. Box 2511, Houston, Texas 77001.

Con Edison has requested that the certification be issued as expeditiously as possible in order to enable Con Edison to take advantage of the limited sixty (60) day purchase period.

Con Edison has in effect other certifications by the ERA, as listed below, which authorize purchases of approximately 28 billion cubic feet of natural gas from other eligible sellers for use at the steam and electric generating stations named in this application.

Docket No.	Volume (Bcf)	Effective	Expires
82–CERT–006	5.00	04/06/82	10/31/82
81–CERT–025	2.20	12/03/81	12/02/82
81–CERT–026	21.00	12/24/81	12/23/82
Total	28.20		

The ERA has carefully reviewed Con Edison's application for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Con Edison's application satisfies the criteria enumerated in 10 CFR Part 595. We are, therefore, granting the certification and transmitting that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification, is available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

The requested certification is being issued prior to the 10 day public comment period because it involves the displacement of large volumes of fuel oil, and it is in the public interest to maximize the displacement of fuel oil. The application also states that the use of this natural gas will be available to displace fuel oil only for a limited period of sixty (60) days from the date of initial delivery. Given the limited availability of the gas and the authority of the Administrator to terminate a certification for good cause (10 CFR 595.08), it is not in the public interest to permanently lose this opportunity to displace large volumes of fuel oil while public comments are being solicited. Based upon the applicant's representations as to the limited availability of the gas and because they form the basis for our granting expedited treatment, the certificate will be effective on issuance and expire seventy-five (75) days thereafter. The added fifteen (15) days will enable Con Edison to complete arrangements for the commencement of deliveries and allow ample time for the full sixty (60) day delivery period.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Natural Gas Branch, Room 6144, RG–631, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, Attention: Paula Daigneault, by September 13, 1982.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group of class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Con Edison and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on August 27, 1982.

F. Scott Bush,

Director, Oil & Gas Imports Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-24220 Filed 9-2-82; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA–FC–82–015; FC Case No. 55080–0366–20–24]

Crown Zellerbach Corp.; Powerplant and Industrial Fuel Uses

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting to Crown Zellerbach Corporation an Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On May 11, 1982, Crown Zellerbach Corporation (hereinafter referred to as petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA of the Act) that (1) prohibit the use of petroleum and natural gas as a primary energy source in new electric powerplants, and (2) prohibit the construction of any new powerplant without the capability to use an alternate fuel as a primary energy source. The final rules containing the criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981) and 47 FR 29209 (July 6, 1982). Criteria governing the cogeneration exemption are contained in 10 CFR 503.37.

The petitioner requested a permanent cogeneration exemption for a proposed 36 MW natural gas or No. 2 distillate oil fired combustion turbine and heat recovery steam generator to produce electricity for sale to Pacific Gas and Electric Company (PG&E) and steam for the company's production processes.

Pursuant to section 212(c) of the Act and 10 CFR 503.37, ERA hereby issues this Order granting a permanent cogeneration exemption for the new powerplant. The basis for ERA's Order is provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATE: In accordance with section 702(a) of FUA, this Order shall take effect on November 2, 1982.

The public file containing a copy of this Order and other documents and supporting materials on this proceeding is available for inspection upon request at: Department of Energy Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E–190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.–4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–8162

Allan Stein, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6B–178, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–2967

SUPPLEMENTARY INFORMATION: The proposed powerplant for which the petition for exemption has been filed is a 36 MW natural gas-fired (with capability of burning oil as a backup fuel) cogeneration powerplant to be operated at the petitioner's Antoich, California recycled linerboard mill.

The cogeneration facility will consist of a 36 MW gas turbine generator coupled with a supplemental duct burner exhausting into a 260,000 pounds/ hour heat recovery boiler. The combustion turbine has a design heat input rate of approximately 457.7 MMBTU's per hour. The duct burner will receive 40 MMBtu's per hour supplemental firing from natural gas or No. 6 fuel oil. Up to 32 MW of the electricity produced by the gas turbine are expected to be sold to PG&E.

The balance of approximately 4 MW of electricity, along with the steam produced from the turbine exhaust heat supplemented by the duct burner, will be utilized in the mill.

Section 212(c) of the Act provides for a permanent exemption for cogeneration. In accordance with 10 CFR 503.37(a)(1) of the final rules, Crown certified that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility; and

2. The use of a mixture of oil and gas and an alternative fuel in the cogeneration facility is not feasible.

In accordance with the evidentiary requirements of 10 CFR 503.37(c), Crown has also included a part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13 of the final rules, including a description of the facility and its proposed operations and fuel capability, a description of the existing environment, direct and indirect environmental impacts of the proposed action, and a description of Federal, State and local requirements for air, water, noise and solid waste disposal which must be met for the proposed facility.

After review of the petitioner's environmental impact submissions, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to the proposed powerplant in the **Federal Register** on June 23, 1982 (47 FR 27093), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of the petition to the Environmental Protection Agency for comments. During the comment period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed on August 9, 1982. No comments were received and no hearing was requested.

Decision and Order

Based upon the entire record of this proceeding, ERA has determined that the petitioner has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR 503.37(a)(1) and, pursuant to section 212(c) of FUA, ERA hereby grants the petitioner a permanent cogeneration exemption for the proposed new powerplant to be located at its recycled linerboard mill, Antioch, Califorania.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this Order may petition for judicial review thereof at any time before November 2, 1982.

Issued in Washington, D.C., on August 23, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-24219 Filed 9-2-82; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Order With State of California and City of Long Beach

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with the State of California and the City of Long Beach as a final order of the Department.

EFFECTIVE DATE: September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Sandra K. Webb, Director, Los Angeles Office, Economic Regulatory Administration, U.S. Department of Energy, 845 South Figueroa Street, Suite 400, Los Angeles, California 90017, (213) 688-7104.

SUPPLEMENTARY INFORMATION: On March 2, 1982, the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with the State of California (State) and the City of Long Beach (City) which would not become effective sooner than 30 days after publication of that notice. 47 FR 8815. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

Although no comments were received by the April 1, 1982 deadline, three comments were submitted after that date. ERA nonetheless has considered the untimely comments and has determined that the Consent Order should be made final without modification.

The Consent Order provides that in settlement of certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, and 212, in connection with the State and City's sales of crude oil during the period August 19, 1973 through January 28, 1981, the State and City will expend $5,000,000 for energy related programs or projects. None of the commentors objected to the settlement. One of the commentors, a State Attorney General, expressed favor with the use of the refund amount for energy related purposes. The other two commentors, however, objected to the proposed remedy.

The objecting commentors are refiners that purchased crude oil from the State and City during the relevant period. Citing the decision of the Temporary Emergency Court of Appeals in *Citronelle-Mobil Gathering, Inc.* v. *Edwards*, 669 F.2d. 171 (1982), the refiners suggested that the refund amount should be distributed to the first purchasers of the crude oil and/or paid into the Entitlements Program. Unlike the facts underlying the Consent Order, the *Citronelle* case dealt with a contested remedial order in which overcharges were adjudicated and purchasers identified. Although it is DOE's policy, when possible, for refunds to be made to those customers who DOE believes to have borne the ultimate burden of the alleged violation, it is not always possible to identify special customers as injured or to determine the extent of their injury. This is especially so at the crude producer level of distribution. Regardless of whether the alleged violations occurred before or after the entitlements program, the petroleum price regulations authorized refiners to pass on their cost of crude oil to their downstream customers. Similarly, sellers of refined petroleum products at both the wholesale and retail level were given an opportunity to pass through their cost of obtaining the product sold. Consequently, it is administratively impossible to determine the exact customers that bore the burden of the alleged violations.

In the instant case, DOE believes that most of the crude oil in question was refined in the State of California and sold to customers within that state. Consequently, DOE believes that it is appropriate for the State and the City to expend the agreed upon funds for energy projects for the benefit of California residents. Accordingly, the Consent Order as proposed is adopted as a final order.

Issued in Los Angeles on the 27th day of August, 1982.

Sandra Webb,

Director, Los Angeles Office, Economic Regulatory Administration.

[FR Doc. 82-24294 Filed 9-2-82; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Order With City of Long Beach

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with the State of California and the City of Long Beach as a final order of the Department.

EFFECTIVE DATE: September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Sandra K. Webb, Director, Los Angeles Office, Economic Regulatory Administration, U.S. Department of Energy, 845 South Figueroa Street, Suite 400, Los Angeles, California 90017, (213) 688–7104.

SUPPLEMENTARY INFORMATION: On March 2, 1982, the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with the City of Long Beach (City) which would not become effective sooner than 30 days after publication of that notice. 47 FR 8815. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

One comment was received by the April 1, 1982 deadline. In addition, two comments were submitted after that date. ERA has considered all of the comments and has determined that the Consent Order should be made final without modification.

The Consent Order provides that in settlement of certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211 and 212, in connection with the City's sales of crude oil during the period February 21, 1974 through January 15, 1975, City will expend $1,000,000 for energy related programs or projects.

The commentors are refiners that claim to have purchased crude oil from the State and City during the relevant period. Citing the decision of the Temporary Emergency Court of Appeals in *Citronelle-Mobil Gathering, Inc.* v. *Edwards, 669* F.2d 171 (1982), the refiners suggested that the refund amount should be distributed to the first purchasers of the crude oil and/or paid into the Entitlements Program. Unlike the facts underlying the Consent Order, the *Citronelle* case dealt with a contested remedial order in which overcharges were adjudicated and purchasers identified. Although it is DOE's policy, when possible, for refunds to be made to those customers who DOE believes to have borne the ultimate burden of the alleged violation, it is not always possible to identify specific customers as injured or to determine the extent of their injury. This is especially so at the crude producer level of distribution. Regardless of whether the alleged violations occurred before or after the entitlements program, the petroleum price regulations authorized refiners to pass on their cost of crude oil to their downstream customers. Similarly, sellers of refined petroleum products at both the wholesale and retail level were given an opportunity to pass through their cost of obtaining the product sold. Consequently, it is administratively impossible to determine the exact customers that bore the burden of the alleged violations.

In the instant case, DOE believes that most of the crude oil in question was refined in the State of California and sold to customers within that state. Consequently, DOE believes that it is appropriate for the City to expend the agreed upon funds for energy projects for the benefit of California residents. Accordingly, the Consent Order as proposed is adopted as a final order.

Issued in Los Angeles on the 27th day of August, 1982.

Sandra Webb,

Director, Los Angeles Office, Economic Regulatory Administration.

[FR Doc. 82-24293 Filed 9-2-82; 8:45 am]

BILLING CODE 6450-01-M

[Case No. 6A0X00326]

Laurel Oil, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c) the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Laurel Oil, Inc., (Laurel), 106 Wall Towers West, Midland, Texas 79702. This Proposed Remedial Order charges Laurel with pricing violations in the amount of $350,351.18 plus interest, connected with its sales of crude oil during the period May 1, 1980 through December 31, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: Department of Energy, Economic Regulatory Administration, Attn: Ernest D. Moore, Audit Director, 1341 West Mockingbird Lane, Dallas, Texas 75235.

On or before September 20, 1982, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas on the 8th day of August 1982.

Herbert F. Buchanan,

Deputy Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 82-24292 Filed 9-2-82; 8:45 am]

BILLING CODE 6450-01-M

Quaker State Oil Refining Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") announces that it has adopted a Consent Order with Quaker State Oil Refining Corporation as a final order of the Department.

EFFECTIVE DATE: September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Robert J. McKee, Jr., Director, Philadelphia Field Office, Economic Regulatory Administration, 1421 Cherry Street, Philadelphia, Pennsylvania 19102 (215–597–2633).

SUPPLEMENTARY INFORMATION: On April 12, 1982, Vol. 47, No. 70, **Federal Register** 15641–15642, the ERA published a notice in the **Federal Register** that it had executed a Proposed Consent Order with Quaker State Oil Refining Corporation on March 5, 1982, which would not become effective sooner than thirty (30) days after publication of that notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the Proposed Consent Order. At the request of certain interested persons, the comment period was extended one week through May 19, 1982.

As the notice of April 12, 1982 stated, the period during which the alleged violations occurred was during the regulatory period and the products involved were various covered products. As that notice also stated, under the Consent Order Quaker has the option of making restriction of $4,800,000 either by delivering Type I or Type VI crude oil to the Strategic Petroleum Reserve ("SPR") in the value of $4,800,000.00 within one hundred eighty (180) days (plus extension) after the effective date of the Consent Order together with any applicable interest, or paying any or all part of such restitution into the DOE escrow fund for subsequent distribution

by the DOE. Quaker State is also required to pay $200,000.00 in lieu of civil penalty.

Sixteen comments were received: one from a federal agency, five from states, three from trade associations, one from a consumer law center, and six from private entities purportedly purchasers of Quaker State products. The federal agency comment approved of the Proposed Consent Order; each of the other comments challenged the proposed remedy of delivery of crude oil to the SPR and claimed on behalf of themselves or their members. Thus, for example, the consumer law center comment sought a set aside of 25% of the refund for poor people; the states felt they should receive the refund to be used for energy purposes, perhaps after a Subpart V proceeding distributed what could be refunded to identified purchasers; the dealers trade associations and the customers felt the refund should be paid to dealers. None of the comments addressed the escrow option.

Several of the comments stated that the SPR remedy was improper or unlawful, and cited the decision of the Temporary Emergency Court of Appeals in *Citronelle-Mobile Gathering, Inc. v. Edwards*, 669 F.2d 171 (T.E.C.A. 1982). However, *Citronelle* is inapplicable here.

In *Citronelle*, TECA affirmed a district court determination in a judicial enforcement action that the seller had committed overcharges in specific sales of crude oil. The court noted that actions by the United States pursuant to Section 209 of the Economic Stabilization Act were undertaken "to enforce public, not private, rights" and thus compensation was only a "by-product" of the agency's enforcement program. 669 F.2d at 722. However, after noting that the government had demonstrated injury to a distinct class of persons, (*i.e.*, proven an overcharge to public utilities and other institutions), TECA declined to permit payment of adjudicated overcharges directly into the U.S. Treasury without first attempting to refund such monies to the injured persons. In this regard, TECA specifically identified twelve utilities as possible recipients of refunds. They are regulated institutions ordinarily required to pass refunds on to their consumers, the persons who would have borne the overcharges in the first instance.

Unlike *Citronelle*, this is not an adjudicated enforcement case. The Consent Order here makes no finding of a violation, nor does Quaker State admit to any violations of DOE regulations. Moreover, while *Citronelle* involved specific transactions, the Consent Order here represents a comprehensive "global" settlement of pending and potential compliance claims by DOE against Quaker State.

DOE has extremely broad discretion to enter into consent agreements settling enforcement claims on terms which it deems appropriate. *Consumer Energy Council v. Duncan*, 4 En. Mgmt. (CCH) ¶ 26,314 (D.D.C. 1981); *U.S. Oil Company v. DOE*, 510 F. Supp. 910 (E.D. Wis. 1981). Indeed, the substantive provisions of a DOE Consent Order represent a nonreviewable exercise of DOE's enforcement discretion, *Consumer Energy Council v. Duncan, supra; U.S. Oil Company v. DOE, supra; Go-Tane Service Station v. DOE*, 4 En. Mgmt. (CCH) ¶ 26,313 (N.D. Ill. 1981); and any relief that a third party might receive from DOE's settlement of its enforcement claims is "a fortuitous benefit * * *." *U.S. Oil Company v. DOE, supra*, 510 F. Supp. at 913. Indeed, under the statutory scheme for enforcement of the petroleum pricing regulations, purchasers have a private right to sue a seller pursuant to Section 210 of the Economic Stabilization Act, 12 U.S.C. 1904 note. This right is unaffected by a DOE Consent Order. *U.S. Oil Company v. DOE, supra.*

Nevertheless, in entering into negotiated settlements, DOE attempts, where practicable, to provide remedial benefits to persons injured by the consenting firms alleged violations. Here, however, the parties to the settlement concluded that it is "not administratively feasible, even if theoretically possible" to identify specific purchasers who may have been injured and the amounts of their alleged injuries.

This conclusion is based on the unique character of Quaker State's product lines and its market. The audit of Quaker State conducted by the DOE alleged that the company had overcharged its motor oil customers, the vast majority of whom purchased through intermediate resellers and retailers. The number of these ultimate purchasers are estimated to be in the tens of thousands and are located throughout the United States. Because the bulk of these alleged violations occurred during the 1973–74 embargo period, it is unlikely that any such overcharges were absorbed by Quaker State's intermediate purchasers. It is not administratively feasible for the DOE to ascertain in each instance whether, or to what extent, such intermediate resellers passed such alleged overcharges through in the form of higher prices to downstream customers. It is likewise not feasible to attempt to identify the tens of thousands of indirect purchasers from Quaker State, especially in light of the fact that the product, mostly motor oils, motor gasoline and home heating oil, is sold in relatively small gallon amounts.

Where the distribution of the sales of the consenting firm is national in scope, as it is here, providing oil to the Strategic Petroleum Oil Reserve is a particularly appropriate remedy. The existence of such a crude oil reserve provides a long term energy benefit to the country in assuring the availability of oil in the event of a severe energy supply disruption.

Accordingly, ERA believes its decision is an appropriate exercise of its discretion and is fully warranted by the circumstances of this case.

At the suggestion of ERA, minor language changes have been made in the Consent Order to clarify the mechanism to evaluate crude oil delivered to the SPR. The Proposed Consent Order is therefore made final and effective on the date of publication of this notice (September 3, 1982)

Issued in Philadelphia, Pennsylvania on this 13th day of August, 1982.

Albert P. Mancini, Jr.

Acting Director, Philadelphia Field Office, Economic Regulatory Administration.

[FR Doc. 82-24295 Filed 9-2-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP82-119-001; et al.]

Algonquin Gas Transmission Co. et al.; Environmental Inspection of the Route and Alternatives

August 31, 1982.

In the matter of Algonquin Gas Transmission Company, Docket No. CP82-119-001; Trans-Niagara Pipeline, Docket Nos. CP82-125-003, and CP82-125-004; Transcontinental Gas Pipe Line Corporation, Docket Nos. CP82-385-000; ANR Storage Company, Docket No. CP82-420-000; Great Lakes Gas Transmission Company, Docket No. CP82-428-000; Texas Eastern Transmission Corporation, Docket No. CP82-446-000; and ANR Michigan Storage Company, Docket No. CP82-478-000.

Notice is given that from September 13 to September 17, 1982, members of the staff of the Federal Energy Regulatory Commission, accompanied by technicians representing the applicants, will conduct an environmental inspection of the routes of the facilities proposed in the applications identified above and

alternatives to them. The inspection will be made by overflight of the proposed and alternative routes in an airplane and helicopters provided by the companies. Because of the restricted carrying capacity of the aircraft, parties wishing to join this inspection will need to arrange for their own transportation.

Additional information about the field inspection is available from Mr. Kenneth Frye, Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, telephone (202) 357–9039.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–24383 Filed 9–2–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–733–000]

Alabama Power Co.; Filing

August 30, 1982.

Take notice that on August 18, 1982, Alabama Power Company filed Fourteenth Revised Sheet No. 34 to its FERC Electric Tariff, Original Volume No. 1. The purpose of this filing is to give notice that effective October 18, 1982, electric service to the East Dothan Delivery Point of The City of Dothan will be terminated. The City of Dothan requested this cancellation and the load served from the East Dothan Delivery Point is to be transferred to Ross Clark Parkway Delivery Point.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules or Practice (18 CFR 385.211, .214). All such petitions or protests should be filed on or before September 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–24255 Filed 9–2–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–739–000]

Arizona Public Service Co.; Filing

August 30, 1982.

Take notice that on August 16, 1982, Arizona Public Service Company (APS) tendered for filing FPC Rate Schedule No. 59, Ninth Revision of Exhibit B to the Wholesale Power Supply Agreement between Arizona Power Authority and APS. This exhibit amends the anticipated contract demands for the years 1982–1986 and adds the years of 1986–1987. This filing does not change the current rate.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All such petitions or protests should be filed on or before September 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–24256 Filed 9–2–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No., ER82–740–000]

Bangor Hydro-Electric Co.; Filing

August 30, 1982.

Take notice that on August 20, 1982, Bangor Hydro-Electric Company (Bangor) tendered for filing a Sales Agreement (the Agreement) made as of August 1, 1982, between Bangor and Public Service Company of New Hampshire (PSNH) for the unit sale of 20,000 kilowatts from Bangor's entitlement in the Mystic Unit No. 7, owned and operated by the Boston Edison Company (Boston), to PSNH.

Bangor has such entitlement under contract for the proposed term of the Agreement from Boston. Such contract has been accepted for filing as Boston's Rate Schedule FPC No. 106. The Agreement provides that PSNH pay for capacity at the rate of $50 per kilowatt per year and for their pro-rata share of the actual energy costs.

Bangor will receive $83,333 per month for capacity for the month of August 1982. Meaningful estimates of the revenue associated with energy are not possible due to the uncertainty of dispatch of the unit and the level of fuel prices.

The charges provided for under the Agreement were the result of arms-length negotiations between the parties. The capacity charge is intended to cover a portion of Bangor's associated capacity charges pursuant to its contract with Boston.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or .214). All such petitions or protests should be filed on or before September 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–24289 Filed 9–2–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–741–000]

Boston Edison Co.; Filing

August 30, 1982.

Take notice that Boston Edison Company of Boston, Massachusetts ("Edison") on August 20, 1982, tendered for filing a contract and an amendment thereto for the sale of power on a weekly basis from Edison's New Boston Units 1 and 2 to the Massachusetts Municipal Wholesale Electric Company ("MMWEC"). Under the contract, Edison and MMWEC will negotiate the capacity charges which will be stated on a kWh basis and which will not exceed $0.013/kWh. MMWEC will also pay an energy charge reflecting Edison's cost of fuel at its New Boston Units.

Edison has asked for an effective date of October 19, 1982 for the contract, but it has stated that it will seek an earlier effective date if an opportunity to make a sale pursuant to the contract arises prior to the presently proposed effective date.

Edison states that copies of this filing have been served upon MMWEC and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All such petitions or protests

should be filed on or before September 14, 1982. Protests will considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24268 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-743-000]

Carolina Power & Light Co.; Filing

August 30, 1982.

Take notice that Carolina Power & Light Company (CP&L) tendered for filing, on August 23, 1982, revised rates for its resale customers that would produce a two-step rate increase. CP&L has tendered for filing Revised Sheet Nos. 2 and 21–23 to its FPC Electric Tariff, First Revised Volume No. I, containing an updated table of contents and index of purchasers. CP&L has also tendered for filing Revised Sheet Nos. 5–8A to its FPC Electric Tariff, First Revised Volume No. I, containing revised rates and charges applicable to CP&L's three municipal, one private distribution utility, 18 rural electric cooperative, and one partial requirements sales-for-resale customers.

The revised rates for the Phase I increase are contained in proposed Resale Service Schedules RS82–1, RS82–2, and RS82–3 applicable to CP&L's electric cooperative customers, municipal and private distribution utility customers, and partial requirements customers, respectively. The revised rates for the Phase II rate increase are contained in proposed Resale Service Schedules RS82–1A, RS82–2A, and RS82–3A for CP&L's cooperative, municipal and private, and partial requirements customers, respectively. Accompanying resale fuel adjustment Rider No. 82A is applicable to all rate schedules.

CP&L proposed to place the revised tariff sheets for Phase I of the increase, as well as Sheet Nos. 2 and 21–23, into effect as of October 23, 1982, and the revised tariff sheets for Phase II of the increase into effect as of October 24, 1982. The revised rates and charges for Phase I would increase revenues from jurisdictional sales by $15,000,051, if the rates were in effect for all of the 12-month period ending December 31, 1983. The revised rates and charges for Phase II would increase revenues an additional $20,112,391 during the same period, for a total revenue increase from the two phases of $35,112,442.

CP&L states that, under the rates currently in effect, it expects to realize a rate of return during Period II (calendar year 1983) from service to its electric cooperative resale customers of 8.38%, from its municipal and private utility resale customers of 9.61%, and from the partial requirements customer of 8.28%. These operating results would produce a return on common equity of 6.36% from cooperative sales, 9.31% from municipal and private utility sales, and 6.10% from the partial requirements customer during the calendar year 1983. The proposed rates and charges are designed to enable CP&L to improve the rate of return realized from resale service, which return it estimated to be 13.41% on rate base if the proposed rates and charges were in effect for the 12-month period ending December 31, 1983.

Copies of the appropriate portions of the filing have been served upon CP&L's jurisdictional resale customers and the State Commissions of North Carolina and South Carolina.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All such petitions or protests should be filed on or before September 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24270 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-188-000]

Central Plants, Inc.—Irwindale Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 30, 1982.

On August 2, 1982, Central Plants, Inc. located at 6140 Bristol Parkway, Culver City, California 90230, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The biomass small power production facility will be located in Irwindale, California. The primary energy source of the facility will be biomass in the form of biomethane obtained from a sanitary landfill. The electric power production capacity of the facility will be 250 kilowatts. Applicant states that it owns no other small power production facility located within one mile of this facility. No electric utility, electric utility holding company or any combination thereof has an ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before October 4, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24280 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-187-000]

Central Plants, Inc.—Oxnard; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 20, 1982.

On August 2, 1982, Central Plants, Inc. location at 6140 Bristol Parkway, Culver City, California 90230, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The biomass small power production facility will be located in Oxnard, California. The primary energy source of the facility will be biomass in the form of biomethane obtained from a sanitary landfill. The electric power production capacity of the facility will be 1,800 kilowatts. Applicant states that it owns no other small power production facility located within one mile of this facility. No electric utility, electric utility holding

company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before October 4, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to interevene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24258 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-186-000]

Central Plants, Inc.—Upland; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 30, 1982.

On August 2, 1982, Central Plants, Inc. located at 6140 Bristol Parkway, Culver City, California 90230, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The biomass small power production facility will be located in Upland, California. The primary energy source of the facility will be biomass in the form of biomethane obtained from a sanitary landfill. The electric power production capacity of the facility will be 250 kilowatts. Applicant states that it owns no other small power production facilities located within one mile of this facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before October 4, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24259 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-738-000]

Duke Power Co.; Filing

August 30, 1982.

Take notice that Duke Power Company (Duke Power) tendered for filing on August 17, 1982 a supplement to the Company's Electric Power Contract with the City of Statesville. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 240.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following additional delivery: Delivery Point No. 3 with a contract demand of 19,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of July 19, 1982.

According to Duke Power copies of this filing were mailed to the City of Statesville and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All such petitions or protests should be filed on or September 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24257 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-737-000]

Duke Power Co.; Filing

August 30, 1982.

Take notice that Duke Power Company (Duke Power) tendered for filing on August 19, 1982 a supplement to the Company's Electric Power Contract with the City of Newton. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 266.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the addition of Delivery Point No. 2 at 16,000 KW contract demand and the termination of Delivery Point No. 1 wat 14,000 KW contract demand.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes effective dates of May 18, 1982 and June 18, 1982, for Delivery Point Nos. 2 and 1, respectively.

According to Duke Power copies of this filing were mailed to the City of Newton and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All such petitions or protests should be filed on or before September 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24271 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-736-000]

Duke Power Co.; Filing

August 30, 1982.

Take notice that Duke Power Company (Duke Power) tendered for filing on August 19, 1982 a supplement to the Company's Electric Power Contract with Lockhart Power Company. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 252.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following decrease in contract demand: Delivery Point No. 1 from 15,000 KW to 11,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of October 19, 1982.

According to Duke Power copies of this filing were mailed to Lockhart Power Company and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All such petitions or protests should be filed on or before September 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24272 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-732-000]

Duke Power Co.; Filing

August 30, 1982.

Take notice that Duke Power Company (Duke) on August 18, 1982 tendered for filing proposed changes in its electric resale rate schedules presently on file with the Commission which are applicable to Electric Cooperatives, Municipalities and Public Utility Companies. Based on the test period 12 months ending December 31, 1983 conditions, Duke estimates that the proposed changes in resale base rates will increase annual revenues from Cooperative Customers by $21.1 million, and from Municipal Customers and Public Utility Companies by $23.0 million.

Duke states that the increase in wholesale rates is needed to compensate the Company for the increased cost of doing business and the impact of inflation and increasing regulatory requirements.

Copies of the filing were served upon all of Duke's jurisdictional Wholesale Customers, the North Carolina Utilities Commission, the South Carolina Public Service Commission, and the Southeastern Power Administration.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All such petitions or protests should be filed on or before September 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24273 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6606-000]

Energenics Systems, Inc., Application for Preliminary Permit

August 31, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on August 18, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6606 to be known as the San Miguel Project located on the San Miguel River, near the town of Telluride, in the Uncompahgre National Forest, San Miguel County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence wht the Applicant should be directed to: Mr. Granville J. Smith II, President, Energenics Systems, Inc., 1717 K Street, N.W., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would consist of: (1) A new diversion dam of unspecified length and height; (2) a head pond; (3) a new 6,000-foot-long diversion canal; (4) a new 1,500-foot-long, 1.5-foot-diameter penstock; (5) a new powerhouse containing turbine-generators with a total rated capacity of 1,600 kW; (6) a new 50-foot-long tailrace channel; (7) a new 44-kV, 250-foot-long transmission line; and (8) appurtenant facilities. The project would generate up to 8,000,000 kWh annually. Energy produced at the project would be sold to a local utility.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before November 12, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et. seq. (1981)); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before November 12, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than January 12, 1983.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24274 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6564-000]

Richard L. Horning; Exemption From Licensing

August 30, 1982.

A notice of exemption from licensing of a small hydroelectric project known as Brunswick Creek Hydro Project No. 6564, was filed on August 2, 1982, by Richard L. Horning. The proposed hydroelectric project would have an installed capacity of 30 kW and would be located on Brunswick Creek, in Washington County, Oregon.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in § 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of September 1, 1982.

Robert E. Cackowski,

Deputy Director, Office of Elecetric Power Regulation.

[FR Doc. 82-24261 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-742-000]

Indianapolis Power & Light Co.; Filing

August 30, 1982.

Take notice that on August 23, 1982 Indianapolis Power & Light Company (IPL) tendered for filing a rate schedule in the form of an agreement which sets forth the rates, charges, terms and conditions for providing wholesale electric service to Boone County Rural Electric Membership Corporation (Boone REMC), which is the only REMC IPL serves. The new rates are intended to supersede and replace the existing agreement and rates designated as Indianapolis Power & Light Company Rate Schedule FERC No. 17, as supplemented, with respect to the type of service enumerated above.

The only customer affected by the proposed new rates is Boone REMC, who has executed an agreement with IPL, dated as of August 1, 1982, which binds IPL to render service under the new rates for a period of two (2) years after their effective date.

IPL alleges that the structure of the new rates has not been changed from the present rates; that the principal change in the new rates is to provide an increase in annual revenues from Boone REMC of $103,668.54, based upon the test year ended June 30, 1981, producing a rate of return for such test year of 10.74% on the original cost, less depreciation, of its facilities devoted to wholesale service to such REMC under the new rates.

IPL proposes, in light of the fact that the present service contract rates to Boone REMC expire October 23, 1982, that the new rate be effective October 24, 1982.

IPL states that copies of this filing, together with exhibits, were sent to Boone REMC and to the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All such petitions or protests should be filed on or before September 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24275 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-744-000]

Iowa Power & Light Co.; Filing

August 30, 1982.

Take notice that Iowa Power and Light Company, Des Moines, Iowa (Company) on August 23, 1982, tendered for filing a Transmission Service Agreement with City of Neola, Iowa (Neola) dated July 7, 1982. Relating to the proposed utilization by Neola of 322 kW of capacity in Company's existing 161–46 kV transmission system from the Creston Interconnection located in the vicinity of Creston, Iowa, to the distribution system of Neola, the Agreement facilitates transmission of power supplied by the United States. The proposed retroactive effective date of this agreement is July 7, 1982.

Company states the purpose of the proposed rates and changes is to recover reflected costs of the facilities to be provided as the scheduling path, for associated operation and maintenance, and for transmission losses for which compensation in kind is provided.

Company requests that the Commission waive its prior notice requirements and accept the proposed rate filing with a retroactive effective date of July 7, 1982.

Company states copies of the filing have been mailed to the City of Neola and to the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All such petitions or protests should be filed on or before September 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies

of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24276 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6312-000]

Mr. Lester Kelley, et al., Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

August 31, 1982.

Take notice that on May 11, 1982, Mr. Lester Kelley, et al. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6312 would be located on Goose Creek, within Payette National Forest in Adams County, Idaho. Correspondence with the Applicant should be directed to: Consulting Associates, Inc., P.O. Box 893, Boise, Idaho 83701.

Project Description—The proposed project would consist of: (1) Two streamside intake structures at elevation 5760 feet; (2) a penstock 32 inches in diameter by 9600 feet long; (3) a powerhouse at elevation 5040 feet containing a turbine generator with a 1563-kW capacity and a 6.748-GWh average annual output; and (4) a transmission line three-quarters of a mile long. The proposed project boundary encloses 400 acres of Federal land.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Fish and Game Department are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applicants—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before October 18, 1982, either the competing license application that proposes to develop at least 7.5 megwatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 18, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24277 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-127-000]

Michigan Consolidated Gas Co.; Complaint

August 26, 1982.

Take notice that on August 12, 1982, Michigan Consolidated Gas Company (Consolidated) submitted to the Commission a complaint requesting that the Commission reject any tariff sheets filed by Trunkline LNG Company (TLC), Trunkline Gas Company (Trunkline) or Panhandle Eastern Pipe Line Company (Panhandle) which provide for the pass-through of LNG costs to their customers; in addition, Consolidated requested the Commission to deny the pass-through of such costs until they are properly authorized under Section 3 and certificated under Section 7(c) of the Natural Gas Act.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-24262 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-11742-002, et al.]

Mobil Oil Corp., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

August 30, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [3]	Pressure Base
G-11742-002, D, Aug. 16, 1982	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Cities Service Gas Company, Hugoton field, Grant County, Kansas.	([1])	
G-11742-003, D, Aug. 16, 1982	....do....	Cities Service Gas Company, Hugoton field, Grant County, Kansas.	([1])	
G-11943-003, D Aug. 19, 1982	Mobil Producing Texasd & New Mexico Inc., Nine Greenway Plaza Suite 2700, Houston, Texas 77046.	Tennessee Gas Pipeline Company, Chesterville & Lissie Field, Colorado and Wharton Counties, Texas.	([2])	
G-12309-000, D Nov. 30, 1977	Ashland Exploration Inc. (successor in interest to Ashland Oil Inc.), P.O. Box 1503, Houston, Texas 77001.	Northern Natural Gas Company, Clark County, Kansas.	([3])	
G-16368-000, D, Aug. 18, 1982	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Transwestern Pipeland Company, West Shattuck Field, Ellis County, Oklahoma.	([4])	
G-16379-000, D, Aug. 18, 1982	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston Texas 77001.	El Paso Natural Gas Company, Bisti Field, San Juan County, New Mexico.	([5])	
G-17113-000, Aug. 17, 1982	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Cities Service Gas Company, Guyton-Hugoton Field, Texas County, Oklahoma.	([6])	
G-18726-000, D, Aug. 16, 1982	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Transwestern Pipeline Company, Ellis County Area, Ellis County, Oklahoma.	([7])	
CI61-903-000, D, Aug. 16, 1982	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Arkansas Louisiana Gas Company, Lassater Field, Marion County, Texas.	([8])	
CI61-1024-004, D, Aug. 18, 1982	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Natural Gas Pipeline Company of America, North Custer City Field, Custer County, Oklahoma.	([9])	
CI67-1326-000, D, Aug. 17, 1982	....do....	Cities Service Gas Company, Guymon-Hugaton Field, Texas County, Oklahoma.	([10])	
CI68-156-001, D, Aug. 18, 1982	....do....	Natural Gas Pipeline Company of America, Northeast Custer City Field, Custer County, Oklahoma.	([11])	
CI72-842-001, D, Aug. 16, 1982	....do....	Northwest Pipeline Corporation, Papoose Canyon Field, Dolores County, Colorado.	([12])	
CI81-450-002, Aug. 18, 1982	The Louisiana Land and Exploration Company, Post Office Box 60350, New Orleans, Louisiana 70160.	Texas Eastern Transmission Corporation, Block 89 Field, South Pass Area, Offshore Louisiana.	([13])	15.025
CI82-356-000, A, Aug. 13, 1982	Pennzoil Producing, P.O. Box 2967, Houston, Texas 77001.	Tennessee Gas Pipeline Company, South Davis Field, Zapata County, Texas.	([14])	14.73
CI82-357-000, A, Aug. 16, 1982	Aminoil USA Inc., Golden Center One, 2800 North Loop West, Post Office Box 94193, Houston, Texas 77018.	Transcontinental Gas Pipe Line Corporation, Ship Shoal Area Block 239 Field, Offshore Louisiana.	([15])	15.025
CI82-358-000, A, Aug. 16, 1982	....do....	Transcontinental Gas Pipe Line Corporation, Ship Shoal Area Block 224 Field, Offshore Louisiana.	([16])	15.025
CI82-359-000 (CI62-230), B, Aug. 16, 1982.	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Arkansas Louisiana Gas Company, West Marlow Field, Stephens County, Oklahoma.	([17])	
CI82-360-000, A, Aug. 18, 1982	Northern Gas Products Company, 2223 Dodge Street, Capitol Plaza 2, Omaha, Nebraska 68102.	Northern Natural Gas Company, Crane and Pecos Counties, Texas.	([18])	14.73
CI82-361-000, A, Aug. 16, 1982	Samedan Oil Corporation, P.O. Box 909, Ardmor, Oklahoma 73401.	Tennessee Gas Pipeline Company, Eugene Island Block 24, Offshore Louisiana.	([19])	15.025
CI82-362-000 (CI67-332), B, Aug. 16, 1982.	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Arkansas Louisiana Gas Company, Kinta Field (Moffett Area), Sequoyah County, Oklahoma.	([20])	
CI82-363-000 (CI64-1274), B, Aug. 16, 1982.	....do....	Northern Natural Gas Company, Denison Strawn Field, Sutton County, Texas.	([21])	
CI82-364-000 (CI61-955), B, Aug. 19, 1982.	Texaco Inc., P.O. Box 60252, New Orleans, Louisiana 70160.	United Gas Pipe Line Company, Gibson Field, Terrebone Parish, Louisiana.	([22])	
CI82-365-000, A, Aug. 19, 1982	Koch Industries, Inc., Post Office Box 2256, Wichita, Kansas 67201.	United Gas Pipe Line Company, West Cameron Block 538 "A" (Platform) (OCS-G 2552 "A" Platform), Offshore Louisiana.	([23])	15.025
CI82-366-000, A, Aug. 19, 1982	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	United Gas Pipe Line Company, High Island Block 442 (South Addition), Offshore Texas.	([24])	14.73

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure Base
CI82-367-000, A, Aug. 20, 1982	CNG Producing Company, Suite 3100, One Canal Place, New Orleans, Louisiana 70130.	United Gas Pipe Line Company, Vermillion Block 40—Well No. 2, Vermillion Area, Offshore Louisiana.	(14)	14.73
G-16091-001. D, Aug. 19, 1982	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77252.	Transwestern Pipeline Company, Mendota, NW Field, Hemphill County, Texas, Panhandle Area of Texas.	(25)	
CI72-311-001, D, Aug. 23, 1982	Mobil Oil Exploration & Producing Southeast Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Arkansas Louisiana Gas Company, Waveland (Arkoma Area), Yeld and Logan Counties, Arkansas.	(26)	

[1] To release gas for irrigation fuel.
[2] Leases surrendered during period 1947 to 1954.
[3] Leases expired.
[4] By Partial Assignment of Oil and gas Lease dated May 13, 1982, Mobil assigned to Mapco Production Company, all of its right, title and interest in and to that certain producing acreage.
[5] By assignment of mining lease dated March 1, 1961, Mobil Oil Corporation assigned to Shell Oil Company a certain lease.
[6] Applicant is filing to change the point of delivery.
[7] Cessation of production. Unit well plugged and abandoned and leases released.
[8] Leases surrendered March 17, 1970.
[9] By letter dated July 12, 1977, Mobil notified Natural Gas Pipeline Company of America of certain leases that have expired and the commitment of these leases to Gas Sales Contract dated October 1, 1960 is terminated.
[10] By partial assignment of Oil and Gas Lease, effective March 9, 1982, Mobil assigned to K.P. Exploration, Inc., all of its rights, title and interest in and to that certain producing acreage.
[11] By Agreement dated June 10, 1977, Mobil and Natural Gas Pipeline Company of America agreed to release a certain lease from the commitment to Gas Sales Contract dated May 15, 1967.
[13] By letter dated May 26, 1977, Mobil notified Northwest Pipeline Corporation that Lease C-1456 (USA-C-045979) part, expires on May 31, 1977 and is no longer committed to the Gas Purchase Agreement dated June 6, 1972, as amended.
[13] Applicant is filing to add additional delivery point.
[14] Applicant is willing to accept a certificate of public convenience and necessity conditioned in price to the applicable ceiling rates as established by the Natural Gas Policy Act of 1978.
[15] Applicant is filing under Gas Sales Contract dated October 4, 1968.
[16] Applicant is filing under Gas Purchase Contract dated December 15, 1969, as amended.
[17] All acreage committed to contract previously assigned or released.
[18] Applicant is filing to Gas Contract dated September 6, 1977.
[19] Applicant is filing under Gas Purchase Contract dated August 9, 1982.
[20] Conoco retains no leasehold interest subject to RS 319.
[21] Conoco's leasehold interest pertains to non-productive zones.
[22] Wells depleted.
[23] Applicant is filing under Gas Purchase Contract dated July 15, 1982.
[24] Applicant agrees to accept initial rate determined in accordance with the Natural Gas Policy Act of 1978, Part 271, Subpart B, Section 102(d).
[25] Low pressure gas available for delivery.
[26] By letters (2) dated February 15, 1978, Mobil notified Arkansas Louisiana Gas Company of certain non-producing leases that have expired and the commitment to these leases to Gas/Sales Contract dated January 21, 1969 is terminated.

Filing Code: A—Initial Service, B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 82-24278 Filed 9-2-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-745-000]

Northern States Power Co.; Filing

August 30, 1982.

Take notice that Northern States Power Company, on August 23, 1982, tendered for filing an Interconnection and Interchange Agreement, dated June 18, 1982, with Montana-Dakota Utilities Company and Basin Electric Power Cooperative.

The Agreement terminates the Interconnection and Interchange Agreement, dated March 1, 1978, with Basin Electric and provides interconnections with Basin at the Logan Interconnection and on the Leland Olds to Logan Line.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions and protests should be filed on or before September 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24263 Filed 9-2-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-734-000]

Portland General Electric Co.; Filing

August 30, 1982.

Take notice that on August 19, 1982, Portland General Electric Company (PGE) tendered for filing the written report regarding Average System Cost (ASC) prepared by the Bonneville Power Administration (BPA), the BPA's Average System Cost determination and PGE's Appendix 1, Schedule 5. In accordance with the provisions of 18 CFR 35.13a(d)(5)(i), these documents are required to be filed with FERC within 15 working days of BPA's ASC determination. This determination was made on July 29, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protests parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24264 Filed 9-2-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3133-001]

Public Service Company of New Hampshire and Union Water Power Co.; Application for License (5 MW or Less)

August 31, 1982.

Take notice that Public Service Company of New Hampshire and Union Water Power Company (Applicant) filed on July 28, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for construction and operation of a water power project to be known as the Errol Project No. 3133. The project would be located on Umbagog Lake on the

Androscoggin River in the town of Errol, Coos County, New Hampshire and Oxford County, Maine. Correspondence with the Applicant should be directed to: Mr. Henry J. Ellis, V.P., Public Service Company of New Hampshire, 1000 Elm Street, P.O. Box 330, Manchester, New Hampshire 03105.

Project Description—The proposed project would consist of: (1) The exisitng 25-foot-high, 205-foot-long, rock-filled timber crib dam containing 5 sluice gates and seven deep gates: (2) a 230-foot-long earthen dike; (3) the existing Umbagog Lake with a surface area of 7,850 acres, 80,000 acre-feet of gross storage capacity and a normal water surface elevation of between 1,247.0 feet and 1,241.0 feet U.S.G.S. datum; (4) a new powerhouse located at the east dam abutment containing two turbine-generators with a total rated capacity of 2,010 kW; (5) a new 215-foot-long tailrace channel; (6) a new 1,500-foot-long, 34.5/19.90-kV transmission line; and (7) appurtenant facilities. The project would generate up to 12,145,000 kWh annually. Energy produced at the project would be utilized by Public Service Company of New Hampshire. Applicant owns the project dam. No change to the operation of Umbagog Lake has been proposed.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 12, 1982, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981). The application was filed during the term of Applicant's preliminary permit for Project No. 3133.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–24279 Filed 9–2–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–735–000]

Puget Sound Power & Light Co.; Filing

August 30, 1982.

Take notice that Puget Sound Power & Light Company (Puget), on August 19, 1982, tendered for filing proposed changes in its FPC Electric Tariff Original Volume No. 3. The schedule provides that non-firm energy will be sold at such times and in such amounts as the Company in its sole discretion determines. Therefore, estimates of transactions or revenues under this schedule would not be applicable and would be impossible to make.

The reasons for the proposed change in the rates is to reflect increases in the actual costs of the Company's coal-fired generating resources. Such actual costs increase include increased coal costs and additional operating expenses since our last filing with the Commission on May 22, 1979.

Puget requests a waiver of the notice requirement to permit an effective date of August 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–24265 Filed 9–2–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6150–000]

Rainsong Co.; Suspending 120-day Period for Action on Small Hydro Exemption

August 27, 1982.

Rainsong Company filed an application for exemption for the proposed Project No. 6150–000, located on Jefferson Creek, in Mason County, Washington. The application was filed pursuant to section 408 of the Energy Security Act of 1980 and § 4.109 *et seq.* of the Commission's regulations.

Having determined that additional time is necessary for action on the application in order to insure full consideration of all imformation and comments that has been received, the 120-day period for Commission action is suspended pursuant to § 4.105(b)(5)(iv).

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–24266 Filed 9–2–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6405-000]

SNC Hydro Inc./Adirondack Hydro Inc., Application for License (5 MW or Less)

August 31, 1982.

Take notice that SNC Hydro Inc./ Adirondack Hydro Inc. (Applicant) filed on June 3, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for construction and operation of a water power project to be known as the Indian Lake Project No. 6405. The project would be located on the Indian River in Hamilton County, New York. Correspondence with the Applicant should be directed to: Mr. Christopher McGill, President, Adirondack Hydro Inc., P.O. Box 145, Wilmington, New York 12997.

Project Description—The proposed project would consist of: (1) Repairs to an existing 550-foot-long 47-foot-high stone masonry and embankment dam with gatehouse, owned by the State of New York: (2) an existing reservoir with a net storage of 107,000 acre-feet and a surface area of 41500 acres at an elevation of 1,650 feet m.s.l.; (3) two proposed 8-foot by 12-foot intake works; (4) two proposed steel penstocks having a diameter of 8.5 feet and lengths of 70 feet and 80 feet; (5) a proposed 24-foot by 56-foot concrete powerhouse containing one turbine/generator unit with a rated capacity of 1,500 kW, operating under a maximum head of 35.5 feet; (6) a proposed 5-foot diameter low level outlet pipe; (7) a proposed 450-foot-long, 4.8-kV, buried transmission line: (8) a proposed 1.8-mile-long, 4.8-kV, overhead transmissionl line; (9) the extension of the existing Indian Lake Dam Road, across the shallow river bed to the toe of the dam for permanent access; and (10) appurtenant facilities. Applicant estimates that average annual energy generation would be 6,000,000 kWh.

Purpose of Project.—Project energy would be sold to Niagara Mohawk Power Corporation.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an angency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 2, 1982, either the competing application itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24280 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-195-000]

Sun Chemical Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

August 30, 1982.

On August 10, 1982, Sun Chemical Corp., 441 Tompkins Avenue, Staten Island, New York 10305, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is under construction in Staten Island, New York. The primary energy source to the facility will be natural gas. The electric power production capacity will be 100 kilowatts. Waste heat will be recovered from jacket water and exhaust gases of a 150 HP internal combustion engine at a rate of 600,000 Btu per hour to be used in the form of hot water for process heat. Installation of the facility was scheduled to begin in July 1982. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before October 4, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24281 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-18-001]

Texas Gas Transmission Corp.; Compliance

August 27, 1982.

Take notice that on August 17, 1982, Texas Gas Transmission Corporation (Texas Gas) submitted for filing, in compliance with the Commission's Order dated July 30, 1982, which

accepted the initial filing yet suspended it subject to refund and certain conditions, Third Substitute Thirty-Sixth Revised Sheet No. 7 to its FPC Gas Tariff Third Revised Volume No. 1. The revised substitute tariff sheet is proposed to become effective August 1, 1982.

Texas Gas states that the revised tariff sheet reflects the following changes: (1) In accordance with ordering paragraph (D) of the Commission's July 30, 1982 order, the revised rates reflect (a) reductions in Texas Gas; pipeline supplier rates and (b) removal of the Union Oil Gueydan Field purchase since deliveries had not commenced as of August 1, 1982; (2) The unrecovered purchase gas costs balance has been revised to reflect the elimination of concurrent exchange imbalance transactions and related carrying charges; and (3) Texas Gas has recalculated carrying charges for Account 191 by including supplier refunds at 100%; however, Texas Gas states that it does not concede the correctness of the recalculation and its action herein is without prejudice to Texas Gas' position with respect to future filings.

Copies of this filing were mailed to all of Texas Gas' jurisdictional sales customers, interested state commissions, and parties of record in this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All such petitions or protests should be filed on or before September 7, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24287 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3607-001]

Thornapple Association, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

August 31, 1982.

Take notice that on July 10, 1982, Thornapple Association, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 3607 would be located on the Thornapple River near the Village of Ada in Kent County, Michigan. Correspondence with the Applicant should be directed to: E. James Jackoboice, Thornapple Association, Inc., 7151 Driftwood Drive, S.E., Grand Rapids, Michigan 49500.

Project Description—The proposed project would consist of: (1) The existing 620-foot long, 38-foot high Ada Dam on the Thornapple River; (2) the existing reservoir with a surface area of 260 acres at 635.8 feet m.s.1 and a maximum gross stoage capacity of 3,000 acre-feet; (3) four existing concrete intake channels; (4) an existing powerhouse containing a proposed turbine/generator unit having an estimated installed capacity of 1.1 MW and producing an average annual energy output of 5.0 GWh; (5) 500 feet of proposed primary transmission line; and (6) appurtenant facilities. The project would be operated in a run-of-river mode.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Michigan Department of Natural Resources are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested: however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before October 21, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of Practice and Procedure, 18 CFR 385.211 or 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments, filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 21, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24282 Filed 9-2-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[TSH-FRL 2201-2; OPTS-59095B]

Acrylate Ester of Acrylic Polymer Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-35) under section 5 of the Toxic Substances Control Act (TSCA) on July 21, 1982. Notice of receipt of the application was published in the **Federal Register** of July 30, 1982 (47 FR 33234). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on August 26, 1982.

FOR FURTHER INFORMATION CONTACT: Anna Coutlakis, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW., Washington, D.C. 20460, (202-382-3742).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On July 21, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-82-35. The submitter, Celanese Specialty Operations, claimed the specific chemical identity, process information, use, and production volume of the new substance as confidential business information. The generic name of the new substance is acrylate ester of acrylic polymer. It will be used in an open use. During manufacture and processing, 19 workers will be potentially exposed through the dermal route. The test marketing period is not to exceed 2 months. A notice published in the **Federal Register** of July 30, 1982 (47 FR 33234) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-82-35, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. No significant systemic health effects or significant environmental effects were identified for the TME substance. Furthermore, any concerns would be mitigated because of low exposure.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The application must maintain records of the date(s) of shipment(s) to the customers, and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a period of 2 months commencing on the date of signature of this notice by the Director of the Office of Toxic Substances.

6. The number of workers exposed to the new chemical should not exceed that specified in the application, and the duration of exposure should not exceed that specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: August 26, 1982.

Marcia Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 82-24251 Filed 9-2-82; 8:45 am]

BILLING CODE 6560-50-M

[TSH-FRC 2201-3; OPTS-00034A]

Interagency Toxic Substances Data Committee; Change of Meeting Place

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The location of the September meeting of the Interagency Toxic Substances Data Committee has been changed.

DATED: September 14, 1982.

ADDRESS: The meeting will take place in the: First Floor Conference Room, Council on Environmental Quality, 722 Jackson Pl., NW., Washington D.C. 20006. Please use the entrance on Jackson Place.

FOR FURTHER INFORMATION CONTACT: Mary Belferman (TS-777), Executive Secretary, Interagency Toxic Substances Data Committee, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington D.C. 20460, (202-554-1404).

SUPPLEMENTARY INFORMATION: The regular meetings of the Interagency Toxic Substances Data Committee usually take place on the first Tuesday of alternate months at 9:30 a.m. and are open to the public. The meetings have

been held in the New Executive Office Building. The September 14, 1982 meeting will be held in the first floor conference room of the Council on Environmental Quality at the address given above.

The next meeting of the Interagency Toxic Substances Data Committee will be held on November 2, 1982.

Dated: August 30, 1982.

Mary Belferman,

Executive Secretary, Interagency Toxic Substances Data Committee.

[FR Doc. 82-24252 Filed 9-2-82; 8:45 am]

BILLING CODE 6560-50-M

[A-10-FRL 2200-8]

Standards of Performance for new Source Performance Standards; Delegation to the State of Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing approval of a request dated August 9, 1982 from the State of Oregon Department of Environmental Quality for delegation of authority for primary aluminum plants under New Source Performance Standards (NSPS) as approved in their OAR 340-25-255 through 25-285.

DATE: Effective August 23, 1982.

ADDRESSES: The related material in support of this delegation may be examined during normal business hours at the following locations:

Central Docket Section (10A-82-13), Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Street, S.W., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

Department of Environmental Quality, 522 S.W. Fifth, Yeon Building, Portland, Oregon 97207

FOR FURTHER INFORMATION CONTACT: Mark H. Hooper, Air Programs Branch, M/S 532, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-1949, FTS: 399-1949.

SUPPLEMENTARY INFORMATION: On November 10, 1975, the Regional Administrator of EPA, Region 10, delegated to the State of Oregon Department of Environmental Quality (DEQ) the authority to implement and enforce New Source Performance Standards (NSPS) for 13 categories of stationary source as promulgated by EPA prior to January 1, 1975. This delegation was published in the **Federal Register** on February 20, 1976 (41 FR 7749). An additional delegation was made on December 3, 1981 (46 FR 62066).

DEQ in a letter dated August 9, 1982 requested delegation of primary aluminum plants as a source category under NSPS. The letter granting this additional delegation of authority to DEQ was dated August 23, 1982 and is as follows:

William H. Young,

Director, State of Oregon, Department of Environmental Quality, P.O. Box 1760, Portland, Oregon 97207.

Dear Mr. Young: On August 9, 1982 you requested that EPA extend the delegation of authority to enforce an additional source category under New Source Performance Standards (NSPS) as granted to the State of Oregon on November 11, 1975. We have reviewed that request and hereby delegate to the DEQ authority to enforce primary aluminum plants. This delegation is subject to the conditions outlined in the original letter of delegation dated November 11, 1975 and published in the **Federal Register** on February 20, 1976 (41 FR 7749).

A Notice announcing this delegation will be published in the **Federal Register** in the future. The Notice will state, among other things, that effective immediately, all reports required pursuant to the Federal NSPS from sources located in the State which were previously sent to EPA will now be sent to the State agency.

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within 10 days of the date of receipt of this letter, the State will be deemed to have accepted all the terms of the delegation.

An advance copy of this **Register** is enclosed for your information.

Sincerely,

John R. Spencer,

Regional Administrator.

(Section 110, Clean Air Act 42 U.S.C. 7410(a) and 7502)

Dated: August 23, 1982.

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 82-24254 Filed 9-2-82; 8:45 am]

BILLING CODE 6560-50-M

[A-10-FRL 2201-1]

Standards of Performance for New Source Performance Standards; Delegation to the State of Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing approval of a request dated July 16, 1982 from the State of Washington for delegation of additional source categories under the New Source Performance Standards (NSPS) as approved in their WAC 173-400-115. The additional source categories are: fossil-fuel fired steam generators, electric utility steam generating units, stationary gas turbines, automobile and light duty truck surface coating operations, glass manufacturing plants and ammonium sulfate manufacture. The delegation of energy facilities applies only to those facilities which fall outside the jurisdiction of the Energy Facility Site Evaluation Council. This delegation will amend the February 28, 1975, July 7, 1977 and May 1, 1981 delegations to the State of Washington.

DATE: Effective August 24, 1982.

ADDRESSES: The related material in support of this delegation may be examined during normal business hours at the following locations:

Central Docket Section (10A-82-11), Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Street, S.W., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

State of Washington, Department of Ecology, 4224 Sixth Avenue SE., Lacey, Washington 98503

FOR FURTHER INFORMATION CONTACT: Mark H. Hooper, Air Programs Branch, M/S 532, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-1949, FTS: 399-1949.

SUPPLEMENTARY INFORMATION: On February 28, 1975, the Regional Administrator of EPA, Region 10, delegated to the State of Washington the authority to implement and enforce New Source Performance Standards (NSPS) for 11 categories of stationary sources as promulgated by EPA prior to January 1, 1975. This delegation was published in the **Federal Register** on April 1, 1975 (40 FR 14632). Additional delegations have been made on the following dates: July 7, 1977 (42 FR 55492) and May 1, 1981 (46 FR 27173).

The State of Washington in a letter dated July 16, 1982 requested delegation of six additional source categories under NSPS. The letter granting this additional delegation of authority to the State was dated August 24, 1982 and is as follows:

Honorable John Spellman,

Governor of Washington, Olympia, Washington 98504.

Dear Governor Spellman: On July 16, 1982 you requested that EPA extend the delegation of authority to enforce additional source categories under New Source Performance Standards (NSPS) as granted to the State of Washington on February 28, 1975. We have reviewed that request and hereby delegate to

the Department of Ecology the authority to enforce the source categories listed as follows:

Fossil-fuel Fired Steam Generators
Electric Utility Steam Generating Units
Glass Manufacturing Plants
Stationary Gas Turbines
Automobile & LIght Duty Truck Surface Coating Operations
Ammonium Sulfate Manufacture

This delegation is subject to the conditions outlined in the original letter of delegation dated February 28, 1975 and published in the Federal Register on April 1, 1975 (40 FR 14632). The delegation of energy facilities applies only to those facilities which fall outside the jurisdiction of the Energy Facility Site Evaluation Council. In addition, EPA hereby delegates to the State of Washington the authority to enforce revisions to NSPS which have been promulgated through July 1, 1982.

A notice announcing this delegation will be published in the **Federal Register** in the future. The Notice will state, among other things, that effective immediately, all reports required pursuant to the Federal NSPS from sources located in the State which were previously sent to EPA will now be sent to the State Agency.

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within 10 days of the date of receipt of this letter, the State will be deemed to have accepted all the terms of the delegation.

An advance copy of this **Federal Register** is enclosed for your information.

Sincerely,

John R. Spencer,

Regional Administrator.

cc: D. Moos, Director DOE

(Section 110, Clean Air Act 42 U.S.C. 7410(a) and 7502)

Dated: August 24, 1982.

John R. Spencer,

Regional Administrator.

[FR Doc. 82-24253 Filed 9-2-82; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2202-7]

Availability of Environmental Impact Statements Filed August 23 through August 27, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information, 382-5075 or 382-5076.

Department of Interior:
EIS No. 820566, Draft, BLM, CO, Royal Gorge/Saguache/San Luis Wilderness Study Areas, Designation, Due: December 6, 1982

Environmental Protection Agency:
EIS No. 820561, final, EPA, SEV, ATL NY NJ New York Dredged Material Ocean Disposal Site, Designation, Due: October 4, 1982
EIS No. 820565, Draft, EPA, MI, Indian Lake-Sister Lakes WWT Plan, Grant, Cass/Berrien/Van Buren Cos, Due: October 18, 1982

Federal Energy Regulatory Commission:
EIS No. 820563, Draft, FRC, ID, Gem State Hydroelectric Project, License, Bingham and Bonneville Cos, Due: October 18, 1982

National Science Foundation:
EIS No. 820560, Final, NSF, HI, Mauna Kea 10-Meter Wave Telescope Installation, Grant, Hawaii County, Due: October 19, 1982

Department of Agriculture:
EIS No. 820564, Draft, AFS, AK, Tongass National Forest Timber Sale Plan, 1984-1989 Operating Period, Due: October 18, 1982
EIS No. 820562, Final, SCS, MN, Burnham Creek Watershed Multipurpose Flood Prevention Plan, Polk Co., Due: October 4, 1982

Amended Notice:
EIS No. 820555, Final, *MMS, AK, St. George Basin OCS Oil and Gas Lease Sale No. 70, Due: September 27, 1982

Paul C. Cahill,

Director, Office of Federal Activities.

Dated: August 31, 1982.

[FR Doc. 82-24352 Filed 9-2-82; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL 2203-4]

Management Advisory Group to the Construction Grants Program; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of Special Task Forces of members from the Management Advisory Group (MAG) to the Construction Grants Program will be held at EPA Headquarters, waterside Mall, Room S353, 401 M Street, S.W., Washington, D.C. 20460, on September 20-21, 1982. The meeting will begin at 9:00 a.m. on Monday, September 20, 1982.

The purpose of the meeting is for three Task Forces to convene:

Task Force #1: Financial Capability of Municipalities for Funding Wastewater Treatment Facilities
Task Force #2: Compliance of Municipalities with Clean Water Act Requirements, and Demonstration of Results of the EPA Grants Program for Wastewater Treatment Facilities
Task Force #3: Management of Sludge Produced by Publicly Owned Treatment Works, Including Pretreatment and Toxic Aspects

The meeting will be open to the public. Any member of the public wishing information about the meeting should contact the Acting Executive Secretary, Mr. Alan B. Hais, Acting Director, Municipal Construction Division, EPA, Washington, D.C. 20460. The telephone number is (202) 426-8986.

EPA has recently instituted new visitor control procedures. In order to minimize any inconvenience, persons wishing to attend are requested to call Ms. Tina Carter at (202) 426-8820 so that they may be included on a roster that will be prepared for the building security guards. Attendees are also requested to enter the building through the East Tower entrance.

Dated: August 31, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-24471 Filed 9-2-82; 8:45 am]

BILLING CODE 6560-50-M

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* Published FR 08-27-82—incorrect bureau.

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1374]

Petitions for Reconsideration of Actions in Rule Making Proceedings

August 31, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed on or before September 20, 1982. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Inquiry into the development of regulatory policy in regard to direct broadcast satellites for the period following the 1983 Regional Administrative Radio Conference. (Gen Docket No. 80-603)
Filed by: Vincent M. Whelan, Deputy Director for The County of Los Angeles on 8-11-82.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-24413 Filed 9-2-82; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Radio Technical Commission for Marine Services, Post Office Box 19087, Washington, D.C. 20036

Executive Committee Meeting
Notice of September Meeting
Thursday, September 16, 1982—9:00 a.m.
National Communications Club

1737 DeSales Street, NW
Washington, D.C.

Agenda

1. Administrative Matters
2. Special Committee Reports

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 82-24283 Filed 9-2-82; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Statement of Policy on Applicability of Glass-Steagall Act to Securities Activities of Subsidiaries of Insured Nonmember Banks

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Statement of policy.

SUMMARY: This statement of policy represents the opinion of the Board of Directors of the Federal Deposit Insurance Corporation ("FDIC") as to the applicability of section 21 of the Glass-Steagall Act (12 U.S.C. 378) to the securities activities of subsidiaries of insured nonmember banks.

EFFECTIVE DATE: September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Pamela E. F. LeCren, Senior Attorney, Legal Division, Room 4126E, (202-389-4171), Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: The Banking Act of 1933, popularly referred to as the Glass-Steagall Act, is codified in various sections of title 12 of the United States Code. Section 21 of the Glass-Steagall Act (12 U.S.C. 378) separates the banking and securities businesses by prohibiting institutions engaged in the business of issuing, underwriting, selling or distributing stocks, bonds, debentures, notes or other securities from also engaging in the business of receiving deposits. Under section 20 of the Act (12 U.S.C. 377), affiliations between banks that are members of the Federal Reserve System and companies principally engaged in securities activities are prohibited.

A number of recent market initiatives by firms engaged in the banking and securities businesses, as well as inquiries from the Securities and Exchange Commission, FDIC insured banks that are not members of the Federal Reserve System ("insured nonmember banks") and securities trade groups, have raised the issue of whether a subsidiary of an insured nonmember bank may lawfully engage in securities activities that would be prohibited to the parent bank by section 21 of the Glass-Steagall Act. The Board of Directors has considered the issue, and is adopting this statement of policy to set forth its views in order to provide general guidance to interested persons.

In adopting this statement of policy, the FDIC recognizes its ongoing responsibility to ensure the safe and sound operation of insured nonmember banks, and recognizes, depending upon the facts, that certain risks may be inherent in involvement of subsidiaries of nonmember banks insecurities activities. Accordingly, the views set forth herein are not intended to express any view as to the safety and soundness of any particular activity or affiliation.

As the Regulatory Flexibility Act of 1980 (Pub. L. 36-354) does not apply to general statements of policy, no regulatory flexibility analysis is required. Additionally, as the statement of policy does not establish any recordkeeping or reporting requirements, the Paperwork Reduction Act of 1980 (Pub. L. 96-511) is inapplicable. As statements of policy and interpretative rules are not subject to sections 4 (b) through (d) of the Administrative Procedure Act, as amended, (5 U.S.C. 553(b)-(d)), this statement of policy may be issued in final form without opportunity for public comment and may be made immediately effective upon its publication in the **Federal Register**.

FDIC Statement of Policy on the Applicability of the Glass-Steagall Act to Securities Activities of Subsidiaries of Insured Nonmember Banks [1]

This statement of policy addresses the applicability of the Glass-Steagall Act to securities activities of subsidiaries of insured nonmember banks. It is not intended to address any other issues that may be raised by such activities.

It is the opinion of the Board of Directors of the FDIC that the Banking Act of 1933, popularly known as the Glass-Steagall Act and codified in various sections of title 12 of the United States Code, does not, by its terms, prohibit an insured nonmember bank from establishing an affiliate relationship with, or organizing or acquiring, a subsidiary corporation that engages in the business of issuing, underwriting, selling or distribution at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes, or other securities.[2] While the Glass-Steagall Act was intended to protect banks from certain of the risks inherent in particular securities activities it does not reach the securities activities of a *bona fide* subsidiary of an insured nonmember bank.

Section 21 of the Glass-Steagall Act (12 U.S.C. 378), the only provision of the Act that is applicable by its terms to insured nonmember banks, provides, in part, that it shall be unlawful for:

> Any person, firm, corporation, association, business trust, or other similar organization, engaged in the business of issuing, underwriting, selling, or distributing * * * stocks, bonds, debentures, notes or other securities, to engage at the same time to any extent whatever in the business of receiving deposits * * *.

This section does not address the actions of subsidiaries or affiliates.

The only provisions of Glass-Steagall that prohibit affiliations between banks and corporations engaged in securities activities apply solely to member banks of the Federal Reserve System. Section 20 (12 U.S.C. 377), for example, specifically provides that no *member* bank shall be affiliated with any corporation, association, business trust, or other similar organization engaged principally in the issue, flotation, underwriting, public sale, or distribution of stocks, bonds, debentures, notes or other securities. Section 32 (12 U.S.C. 78) prohibits persons who are officers, directors, or employees of corporations that are primarily engaged in certain securities activities, or partners or employees of partnerships so engaged, from serving as directors, officers, or employees of *member* banks.

[1] This statement of policy only applies to insured nonmember banks. Moreover, insured nonmember banks that are members of a bank holding company system will also need to take into consideration the restrictions of sections 4(a) and 4(c)(8)) of the Bank Holding Company Act (12 U.S.C. 1843(a), 1843(c)(8) and Federal Reserve Board regulations before entering into securities activities through subsidiaries.

[2] The FDIC of course recognizes its ongoing responsibility to ensure the safe and sound operation of insured nonmember banks, and, depending on the facts, the potential risks inherent in a bank subsidiary's involvement in certain securities activities.

In a 1981 decision involving section 4(c)(8) of the Bank Holding Company Act, sections 16 and 21 of the Glass-Steagall Act,[3] and Federal Reserve Board Regulation Y (12 CFR Part 225) permitting bank holding companies to advise closed-end investment companies, the Supreme Court affirmed that section 21 applies only to banks and *not* to their nonbank affiliates. *Board of Governors of the Federal Reserve System* v. *Investment Company Institute*, 450 U.S. 46 (1981). The Court indicated at footnote 24 that:

We agree with the Court of Appeals that Sections 16 and 21 apply only to banks and not to bank holding companies. Section 21 prohibits firms engaged in the securities business from also receiving deposits. Bank holding companies do not receive deposits, and the language of section 21 cannot be read to include within its prohibition separate organizations related by ownership with a bank, which does receive deposits.

The Court went on in the same footnote to quote the following exchange between Senator Glass, co-sponsor of the bill that became the Glass-Steagall Act, and Senator Robinson:

Mr. Glass: Here [section 21] we prohibit the large private banks whose chief business is investment business, from receiving deposits. We separate them from the deposit banking business.

Mr. Robinson of Arkansas: That means if they wish to receive deposits they must have separate institutions for that purpose?

Mr. Glass: Yes.

The Court also rejected the argument that a bank and its holding company should be treated as a single entity for the purposes of sections 16 and 21, stating that the structure of the Glass-Steagall Act itself indicates the contrary. *Id.* at n. 24.

Although the Supreme Court in *Board of Governors* v. *ICI* did not consider section 21 in the context of a bank and its subsidiary, we are of the opinion that the Court's conclusion regarding section 21 and holding company affiliates is equally applicable in this instance. Thus, the FDIC does not believe that it would be warranted in extending the reach of the prohibitions of section 21 of the Glass-Steagall Act to *bona fide* subsidiaries of insured nonmember banks. The FDIC intends, however, to continue to monitor closely developments related to the securities activities of bank subsidiaries.

By Order of the Board of Directors.

[3] Section 16 (12 U.S.C. 24 Seventh) provides that national banks may not, with certain exceptions, deal in securities except to buy and sell securities solely upon the order and for the account of customers. The exception for dealing in securities upon the order of customers is incorporated into the first paragraph of section 21 and thus applies to member and nonmember banks alike.

Dated: August 23, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82-24450 Filed 9-2-82; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-667-DR]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA-667-DR), dated August 26, 1982, and related determinations.

DATE: August 26, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of August 26, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from severe storms and flooding beginning on August 12, 1982, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area except for technical assistance which will be funded at 100 percent.

Pursuant to Section 408(b) Pub. L. 93-288, you are authorized to advance to the State its 25 percent share of the individual and family grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Patrick J. Breheny of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Missouri to have been affected adversely by this declared major disaster: Cass and Jackson Counties for Individual Assistance and Public Assistance. Clay County for Individual Assistance only.

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

[FR Doc. 82-24235 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-666-DR]

Tennessee; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Tennessee (FEMA-666-DR), dated August 24, 1982, and related determinations.

DATED: August 24, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of July 22, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Tennessee resulting from severe storms and flooding beginning on August 16, 1982, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of Tennessee.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area except for technical assistance which will be funded at 100 percent.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Paul E. Hall of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Tennessee to have been affected adversely by this declared major disaster: Marion and Smith Counties for Individual Assistance and Public Assistance. Hamilton County for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82-24236 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-3086-EM]

Washington; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Washington (FEMA–3086–EM), dated August 19, 1982, and related determinations.

DATED: August 19, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of August 19, 1982, the President declared an emergency as follows:

I have determined that the threat which not exists to lives and property in certain areas of the State of Washington due to the volcanic eruption and the resulting potential for catastrophic flooding from Spirit Lake, is of sufficient severity and magnitude that it warrants an emergency declaration under Pub. L. 93–288. I therefore declare that such an emergency exists in the State of Washington.

You are authorized to coordinate, or take appropriate emergency flood control measures at Spirit Lake to cope with this threat of catastrophic flooding.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal emergency assistance and administrative expenses. Any Federal funds provided under Pub. L. 93–288 to a Federal agency for emergency work on Federal lands will be funded at 100 percent. However, no such Federal funding shall be approved whenever adequate Federal funding is available when needed for such purposes under other statutory authorities. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 to the State of Washington and its local governments will be limited to 75 percent of total eligible costs except for technical assistance which will be funded at 100 percent.

Notice is hereby given pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. William H. Mayer of the Federal Emergency Management to act as the Federal Coordinating Officer for this declared emergency.

Federal assistance will be made available in accordance with the authorizes and funding available to the U.S. Department of Agriculture and the U.S. Army Corps of Engineers, supplemented as required by the authorities of section 305 and 306 of Pub. L. 93–288. Assistance under Pub. L. 93–288 will include necessary coordination and technical assistance; otherwise it will be limited to emergency flood control measures in the vicinity of Spirit Lake. Assistance under Pub. L. 93–288 will terminate at such time as the current threat of a major disaster due to castastrophic flooding from Spirit Lake is no longer of emergency proportions. (Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82-24234 Filed 9-2-82; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

Coronado Savings and Loan Association, Albuquerque, N. Mex.; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in Section 406(c)(2) of the National Housing Act, as amended (12 U.S.C. 1729(c)(2) (1976)), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole Receiver for Coronado Savings and Loan Association, Albuquerque, New Mexico, effective August 27, 1982.

Dated: August 31, 1982.

Gregory B. Smith,

Acting Secretary,

[FR Doc. 82-24304 Filed 9-2-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Co.; Proposed de Novo Nonbank Activities

The bank holding company listed in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly, or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh

possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Imperial Bancorp*, Inglewood, California (data processing and data transmission activities; entire United States): To engage, through its subsidiary, Imperial Automation, Inc. in providing packaged data processing and transmission services for banking financial and economic data for installation on the premises of customers that are depository or similar institutions from existing offices in Costa Mesa, California; Chicago, Illinois; Atlanta, Georgia; and Dallas, Texas; and proposed offices in New York, New York and Seattle, Washington. The geographic area to be served will be the entire United States. Comments on this application must be received not later than September 18, 1982.

Board of Governors of the Federal Reserve System, September 2, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-24534 Filed 9-2-82; 10:33 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory body scheduled to assemble during the month of September 1982.

Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, September 14; 9:30 a.m., HHS North Building, 200 Independence Avenue, S.W., Washington, D.C. 20201

Open

Contact: Mr. Leland H. Towle, Room 16-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4883

Purpose: The Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism (1) evaluates the adequacy and technical soundness of all Federal programs and activities which relate to alcohol abuse and alcoholism and provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and (2) seeks to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.

Agenda: To discuss the future of the Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism and alternatives for continued interagency collaboration and coordination.

Substantive program information may be obtained from the contact person listed above. A summary of the meeting and a roster of the committee members will be furnished upon a request from Mrs. Nancy Judd, International and Intergovernmental Affairs, Office of the Director, National Institute on Alcohol Abuse and Alcoholism, Room 16-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3885.

Dated: August 30, 1982.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82-24305 Filed 9-2-82; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

Validation Procedures for Field Test Method for Earplug Effectiveness; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Date: September 28, 1982
Time: 2:00 p.m. to 5:00 p.m.
Place: Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226
Purpose: To discuss and evaluate recently proposed field methodology for the testing of earplug attenuation at the workplace.

Additional information may be obtained from: Randy L. Tubbs, Ph. D., Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: (513)/684-8281.

Dated: August 27, 1982.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 82-24316 Filed 9-2-82; 8:45 am]

BILLING CODE 4160-19-M

Mine Health Research Advisory Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

Name: Mine Health Research Advisory Committee
Date: September 29-30, 1982
Place: Auditorium (First Floor), Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226
Time and Type of Meeting: Closed 11:30 a.m. to 12:00 noon—September 29; Open 1:00 p.m. to 4:00 p.m.—September 29; Open 9:00 a.m. to 1:00 p.m.—September 30
Contact Person: Roy M. Fleming, Sc.D., Executive Secretary, 5600 Fishers Lane, Room 8-23, Rockville, Maryland 20857, Phone: (301) 443-4614
Purpose: The Committee is charged with advising the Secretary of Health and Human Services on matters involving or relating to mine health research, including grants and contracts for such research.
Agenda: Beginning at 11:30 a.m. on September 29, the Committee will be performing the final review of the mine health research grant application for Federal assistance. This portion of the meeting will not be open to the public in accordance with the provisions set forth in Section 552(c)(6), Title 5 U.S. Code and the Determination of the Director, Centers for Disease Control, pursuant to Pub. L. 92-463.

Agenda items for the open portion of the meeting beginning at 1:00 p.m. on September 29, will include announcements, consideration of minutes of previous meeting and future meeting dates, Peer Review Subcommittee report, research studies on segmental vibration, status report on major occupationally-related diseases, research studies on uranium workers, status of analyses of data from the National Coal Study, and protection of human subjects.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. Anyone wishing to make an oral presentation

should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentations will be scheduled at the discretion of the Chairperson and as time permits. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: August 27, 1982.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 82-24317 Filed 9-2-82; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 82F-0215]

Dow Chemical Co; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is announcing that Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of styrene-butadiene-vinylidene chloride and styrene-vinylidene chloride copolymers as components of articles in contact with food.

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, 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 2B3630) has been filed by Dow Chemical Co., 1803 Building, Midland, MI 48640, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of styrene-butadiene-vinylidene chloride copolymers, with one or more of the minor monomers acrylic acid, fumaric acid, 2-hydroxyethyl acrylate, itaconic acid, and methacrylic acid, and styrene-vinylidene chloride copolymers, with one or more of the minor monomers acrylic acid, fumaric acid, itaconic acid, and methacrylic acid, as components of paper and paperboard in contact with food.

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 supporting 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 25, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-24308 Filed 9-2-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0255]

Lonza Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Lonza, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of di-*n*-alkyl (C_8-C_{10}) benzyl dimethylammonium chloride, *n*-alkyl (C_{12}-C_{18}) dimethylammonium chloride and *alpha*-(*p*-nonylphenyl)-*omega*-hydroxypoly(oxyethylene) 9 to 12 moles of ethylene oxide, as components of a sanitizing solution to be used on food-contact surfaces.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3638) has been filed by Lonza, Inc., Fair Lawn, NJ 07410, proposing that the food additive regulations be amended to provide for the safe use of di-*n*-alkyl (C_8-C_{10}) benzyl dimethylammonium chloride, *n*-alkyl (C_{12}-C_{18}) dimethylammonium chloride and *alpha*-(*p*-nonylphenyl)-*omega*-hydroxypoly(oxyethylene) 9 to 12 moles of ethylene oxide, as components of a sanitizing solution to be used on food-contact surfaces.

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 25, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-24309 Filed 9-2-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N-0041; DESI 7864]

Betadine Vaginal Gel; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of the new drug application (NDA) for Betadine Vaginal Gel (NDA 11-754), held by Purdue Frederick Co., on the ground that there is a lack of substantial evidence that the drug is effective in the treatment of various forms of vaginitis.

EFFECTIVE DATE: October 4, 1982.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 7864 and directed to the Division of Drug Labeling Compliance (HFD-310), National Center for Drug and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nicholas Reuter, National Center for Drugs and Biologics (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing (formerly Docket No. FDC-D-679) published in the Federal Register of August 16, 1974 (39 FR 29607), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the new drug application for the following drug labeled for the treatment of certain vaginal conditions. The proposal was based on the lack of substantial evidence of effectiveness as required by section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5). In response to that notice, Purdue Frederick Co. filed a hearing request for

Betadine Vaginal Gel (NDA 11–764) and submitted data, information, and analyses in support of its request. Purdue Frederick Co. subsequently withdraw its hearing request on June 17, 1982. Approval of the new drug application for this product is now withdrawn.

NDA 11–754; Betadine Vaginal Gel containing 10 percent povidone-iodine in a polyethylene glycol base; Purdue Frederick Co., 50 Washington St. Norwalk, CT 06856.

Any drug product that is identical, related, or similar to this product and is not the subject of an approved new drug application is covered by NDA 11–754 and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the National Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982) finds that, on the basis of new information before him with respect to the product, evaluated together with the evidence available to him when the application was approved, there is lack of substantial evidence that the product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing findings, approval of NDA 11–754 and all its amendments and supplements is withdrawn effective October 4, 1982.

Shipment in interstate commerce of the above product or any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: August 26, 1982.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 82-24306 Filed 9-2-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0254]

Kay-Fries, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Kay-Fries, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of glycerol tristearate as a crystallization accelerator, lubricant, release agent, and compressing aid to be used in or on food.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2A3639) has been filed by Kay-Fries, Inc., 10 Link Drive, Rockleigh, NJ 07647, proposing that the food additive regulations be amended to provide for the safe use of glycerol tristearate as a crystallization accelerator, lubricant, release agent, and compressing aid to be used in or on food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: August 25, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-24307 Filed 9-2-82; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

National Professional Standards Review Council; Cancellation

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made that the September 13–14, 1982 meeting of the National Professional Standards Review Council is cancelled.

All communications regarding this Council should be addressed to Cleo E. Hancock, Health Standards and Quality Bureau, Dogwood East Building, 1849 Gwynn Oak Avenue, Baltimore, Md., 21207, (301) 594–5033.

Dated: August 31, 1982.

Cleo E. Hancock,

National Professional Standards Review Council.

[FR Doc. 82-24379 Filed 9-2-82; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

NIH Public Advisory Committees; Establishment and Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the National Institutes of Health announces the establishment and renewal by the Secretary, HHS, with the concurrence of the Committee Management Secretariat, General Services Administration, of the Following committees:

Establishment: Hearing Research Study Section.

The Hearing Research Study Section shall advise the Secretary, the Assistant Secretary for Health, and the Director, National Institutes of Health, regarding applications for grants-in-aid for research and research training awards and proposals relating to basic and clinical research on the auditory system and its disorders. The Hearing Research Study Section will expire on July 30, 1984, unless the Secretary formally determines that continuance is in the public interest.

Renewals

Biochemical Endocrinology Study Section
Cardiovascular and Renal Study Section
Chemical Pathology Study Section
Diagnostic Radiology Study Section
Epidemiology and Disease Control Study Section
Experimental Therapeutics Study Section
Experimental Virology Study Section
General Medicine B Study Section
Genetics Study Section
Hematology Study Section
Human Embryology and Development Study Section
Immunological Sciences Study Section
Mammalian Genetics Study Section
Medicinal Chemistry Study Section
Metabolism Study Section
Metallobiochemistry Study Section
Microbial Physiology and Genetics Study Section (formerly Microbial Physiology Study Section)
Molecular Biology Study Section
Molecular Cytology Study Section
National Cancer Advisory Board
Neurological Sciences Study Section
Neurology B Study Section
Nutrition Study Section
Pathobiochemistry Study Section (formerly Pathobiological Chemistry Study Section)
Pathology A Study Section
Pathology B Study Section
Pharmacology Study Section
Physiology Study Section
President's Cancer Panel
Recombinant DNA Advisory Committee

Reproductive Biology Study Section
Social Sciences and Population Study Section
Surgery and Bioengineering Study Section
Tropical Medicine and Parasitology Study Section
Virology Study Section
Visual Sciences A Study Section
Visual Sciences B Study Section

Authority for the above committees will expire on June 30, 1984, with the expection of the National Cancer Advisory Board, and the President's Cancer Panel, which will terminate on May 31, 1984, unless the Secretary formally determines that continuance is in the public interest.

Dated: August 27, 1982.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 82-24248 Filed 9-2-82; 8:45 am]

BILLING CODE 4140-01-M

Biometry and Epidemiology Contract Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, October 1, 1982, Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on October 1, from 9:00 a.m. to 9:30 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 1, from 9:30 a.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winfred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Wilna A. Woods, Executive Secretary, Biometry and Epidemiology Contract Review Committee, National Cancer Institute, Westwood Building, Room 822, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7153) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.398, project grants in cancer research manpower, National Institutes of Health)

(NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular)

Dated: August 20, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-24240 Filed 9-2-82; 8:45 am]

BILLING CODE 4140-01-M

Board of Regents and the Extramural Programs Subcommittee; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on October 7-8, 1982, in the NMAC Classroom, Lister Hill Center Building of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, and the meeting of the Extramural Programs Subcommittee of the Board of Regents on the preceding day, October 6, 1982, from 2:00 to 5:00 p.m., in the 5th floor Conference Room of the Lister Hill Center Building.

The meeting of the Board will be open to the public from 9:00 a.m. to 5:00 p.m. on October 7 and from 9:00 to 9:30 a.m. and 10:15 a.m. to adjournment on October 8 for administrative reports and program discussions. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4), 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-436, the entire meeting of the Extramural Programs Subcommittee on October 6 will be closed to the public, and the regular Board meeting on October 8 will be closed from 9:30 to 10:15 a.m. for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would consititute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, Telephone Number: 301-496-6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

(NIH Programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular)

Dated: August 20, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-24246 Filed 9-2-82; 8:45 am]

BILLING CODE 4140-01-M

Cancer Clinical Investigation Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, November 1-2, 1982, Building 31C Conference Room 6, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on November 1, from 8:30 a.m. to 9:00 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 1, from approximately 9:00 a.m. to adjournment, and on November 2, from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Dorothy K. Macfarlane, Executive Secretary, Cancer Clinical Investigation Review Committee, National Cancer Institute, Westwood Building, Room 819, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7481) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.395, Project grants in cancer treatment research, National Institutes of Health)

(NIH Programs are not covered by OMB Circular A-95 because they fit the description

of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular)

Dated: August 20, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-24241 Filed 9-2-82; 8:45 am]

BILLING CODE 4140-01-M

Cancer Control Grant Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Grant Review Committee, National Cancer Institute, October 18-19, 1982, Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on October 18, from 8:30 a.m. to 9:00 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 18, from 9:00 a.m. to adjournment, and on October 19, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Robert F. Browning, Executive Secretary, Cancer Control Grant Review Committee, National Cancer Institute, Westwood Building, Room 806, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7413) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.399, project grants and contracts in cancer control, National Institutes of Health)

(NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of the Circular)

Dated: August 20, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-24242 Filed 9-2-82; 8:45 am]

BILLING CODE 4140-01-M

Communicative Disorders Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Communicative Disorders Review Committee, National Institutes of Health, October 28 and 29, 1982, in the Queensbury Room of the Linden Hill Hotel and Racquet Club, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

The meeting will be open to the public from 8:30 a.m. until 9:30 a.m. on October 28, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 28 from 9:30 a.m. to adjournment on October 29, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, Maryland 20205, telephone 301/496-5751, will furnish summaries of the meeting and roster of the committee members.

Dr. Marilyn Semmes, Executive Secretary, NINCDS, NIH, Federal Building, Room 9C14, Bethesda, Maryland, telephone 301/496-9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program, National Institutes of Health)

(NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular)

Dated: August 20, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-24239 Filed 9-2-82; 8:45 am]

BILLING CODE 4140-01-M

National Advisory Dental Research Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on October 28-29, 1982, in Conference Room 10, Building 31-C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to adjournment on October 29 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on October 28 from 9:00 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Dorothy Costinett, Committee Management Assistant, National Institute of Dental Research, National Institutes of Health, Building 31-C, Room 2C21, Bethesda, MD 20205, (phone 301 496-2883) will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Programs Nos. 13.840-Caries Research, 13.841-Periodontal Diseases Research, 13.842-Craniofacial Anomalies Research, 13.843-Restorative Materials Research, 13.844-Pain Control and Behavioral Studies, 13.845-Dental Research Institutes, 13.878-Soft Tissue Stomatology and Nutrition Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: August 20, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-24245 Filed 9-2-82; 8:45 am]

BILLING CODE 4140-01-M

National Advisory Environmental Health Sciences Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, National Institute of Environmental Health Sciences, September 20–21, 1982, at the National Institute of Environmental Health Sciences, Building 101 Conference Room, Research Triangle Park, North Carolina.

This meeting will be open to the public on September 20, 1982, from 9 a.m. to approximately 12 noon for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on September 20, from approximately 1:00 p.m. to adjournment on September 21, 1982, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Winona P. Herrell, Committee Management Officer, NIEHS, Building 31, Room 2B55, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–3511, will provide summaries of the meeting and rosters of council members.

Dr. Wilford L. Nusser, Associate Director for Extramural Program, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541–7723, FTS 629–7723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.892, Prediction, Detection and Assessment of Environmentally Caused Diseases and Disorders; 13.893, Mechanisms of Environmental Diseases and Disorders; 13.894, Environmental Health Research and Manpower Development Resources, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular)

Dated: August 20, 1982

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–24244 Filed 9–2–82; 8:45 am]

BILLING CODE 4140–01–M

National Advisory General Medical Sciences Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on October 14 and 15, 1982, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on October 14, 1982, from 9:00 a.m. to 12 noon for opening remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 14 from approximately 1:00 p.m. to 5:00 p.m., and on October 15, 1982, from 9:00 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Ellen Casselberry, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Room 9A12, Westwood Building, Bethesda, Maryland 20205, Telephone: 301, 496–7301 will provide a summary of the meeting and a roster of council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, National Institutes of Health Westwood Building, Room 926, Bethesda, Maryland 20205, Telephone: 301, 496–7891 will provide substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13–821, Physiology and Biomedical Engineering; 13–859, Pharmacology-Toxicology Research; 13–862, Genetics Research; 13–863, Cellular and Molecular Basis of Disease Research; and 13–880, Minority Access to Research Careers (MARC))

(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)

[FR Doc. 82–24243 Filed 9–2–82; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Advisory Board and Board Subcommittees; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the National Cancer Advisory Board and its Subcommittees on Special Actions for Grants, Planning and Budget, National Organ Site Programs, and Review of Contracts and Budget of the Office of the Director, October 3–6, 1982, National Cancer Institute, Building 31, C Wing, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20205. Portions of the Board meeting and the Subcommittees on Planning and Budget, National Organ Site Programs, and Review of Contracts and Budget of the Office of the Director will be open to the public to discuss committee business as indicated in the notice. Attendance by the public will be limited to space available.

Portions of these meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, NCI, Building 31, Room 10A06, National Institites of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of the meetings, substantive program information and rosters of members, upon request.

Name of committee: *National Cancer Advisory Board*

Dates of meeting: October 4–6, 1982

Place of meeting: Building 31, C Wing, Conference Room 6 National Institutes of Health

Open: October 4, 8:30 a.m.—adjournment October 6, 8:30 a.m.—adjournment

Agenda: Reports on activities of the President's Cancer Panel; the Director, National Cancer Institute; the Frederick Cancer Research Contract Recompetition; the status of the Community Clinical Oncology Program's RFA; and reports on the NCAB Subcommittees.

Closed session: October 5, 8:30 a.m.—adjournment

Closure reason: To review cancer grant applications.

Name of committee: *Subcommittee on National Organ Site Programs*
Date of meeting: October 3, 1982
Place of meeting: Building 31, C Wing, Conference Room 6 National Institutes of Health
Open: October 3, 7:30 p.m.—adjournment
Agenda: A discussion of the Organ Site Programs reorganization.

Name of committee: *Subcommittee on Planning and Budget*
Date of meeting: October 4, 1982
Place of meeting: Building 31, A Wing, Room 10A52, National Institutes of Health
Open: October 4, 7:30 p.m.—adjournment
Agenda: A discussion of the Status of the FY1983 Budget.

Name of committee: *Subcommittee on Special Actions for Grants*
Date of meeting: October 5, 1982
Place of meeting: Building 31, C Wing, Conference Room 6, National Institutes of Health
Closed: October 5, 10:30 a.m.—adjournment
Closure reason: Review of grant applications.

Name of committee: *Subcommittee for Review of Contracts and Budget of the Office of the Director*
Date of meeting: October 6, 1982
Place of meeting: Building 31, A Wing, Conference Room 4, National Institutes of Health
Open: October 6, 12:30 p.m. to adjournment
Agenda: To concept review Office of the Director contracts for approval/disapproval and to review the Office of the Director budget.

Dated: August 20, 1982.

Betty J. Beveridge,

Committee Management Officer, NIH.

(Catalog of Federal Domestic Assistance Program Numbers: 13.392, project grants in cancer construction; 13.393, project grants in cancer cause and prevention; 13.394, project grants in cancer detection and diagnosis; 13.395, project grants in cancer treatment; 13.396, project grants in cancer biology; 13.397, project grants in cancer centers support; 13.398, project grants in cancer research manpower; 13.399, project grants and contracts in cancer control)

(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)

[FR Doc. 82–24247 Filed 9–2–82; 8:45 am]

BILLING CODE 4140–01–M

Neurological Disorders Program-Project Review B Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review B Committee, National Institute of Health, October 28 and 29, and 30, 1982, at the Holiday Inn Hotel, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting will be open to the public from 2:00 p.m. until 2:30 p.m. on October 28, 1982, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 28th from 2:30 p.m. to adjournment on October 30th, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which constitutes a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, Maryland 20205, telephone 301/496–5751, will furnish summaries of the meeting and roster of the committe members.

Dr. Ellen G. Archer, Executive Secretary, Federal Building, Room 9C10B, Bethesda, Maryland, telephone 301/496–9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.852, Neurological Disorders Program, National Institute of Health.)

(NIH Programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular)

Dated: August 20, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institute of Health.

[FR Doc. 82–24238 Filed 9–2–82; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Authorities Under Title III of the Public Health Service Act; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of August 4, 1981 (46 FR 42918), by the Assistant Secretary for Health to the Director, Centers for Disease Control, of certain authorities under Title III of the Public Health Service Act (42 U.S.C. 241 *et seq.*), as amended, the Director, Centers for Disease Control, has delegated to the PHS Regional Health Administrators, Regions I–X, with authority to redelegate, the following authorities, for exercise within their respective jurisdictions:

1. To review and award grants, except for the administration of related direct assistance, under section 317(a) of the Public Health Service Act (42 U.S.C. 247b), as amended, for childhood immunization programs.

2. To review and award grants under section 318(c) of the Public Health Service Act (42 U.S.C. 247c), as amended, except for the administration of related direct assistance, for projects and programs for the prevention and control of venereal disease, and under section 318(b) of the Public Health Service Act (42 U.S.C. 247c), as amended, with respect only to public information and education activities which are a part of control program grants authorized under section 318(c).

The Director, Centers for Disease Control, has made provision for the ratification of all actions taken by the PHS Regional Health Administrators on behalf of the Director, Centers for Disease Control, consistent with the foregoing delegation, under sections 317 and 318 of the Public Health Service Act, as amended.

The delegation to the PHS Regional Health Administrators, Regions I–X, became effective on August 17, 1982.

Dated: August 17, 1982.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 82–24310 Filed 9–2–82; 8:45 am]

BILLING CODE 4160–18–M

Grant Authorities Continued Under Title XVII of the Omnibus Budget Reconciliation Act of 1981; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of December 2, 1981 (46 FR 61509), by the Assistant Secretary for Health to the Director, Centers for Disease Control, of certain authorities under Subtitle C, Chapter 2, of Title XVII of the Omnibus Budget Reconciliation Act of 1981 (31 U.S.C. 1243 note), the Director, Centers for Disease Control, has delegated to the PHS Regional Health Administrators, Regions I–X, with authority to redelegate, the following authorities, for exercise within their respective regions, under the transition provisions of section 1743 of the Omnibus Budget Reconciliation Act of 1981 (31 U.S.C. 1243 note), as amended, as they relate to the grant authorities currently being exercised by the Regional Health Administrators:

1. To review and award grants, except for the administration of related direct assistance, formerly authorized under section 314(d) of the Public Health

Service Act (42 U.S.C. 246(d)), as amended, for Comprehensive Public Health Services.

2. To review and award grants formerly authorized under section 316 of the Public Health Service Act (42 U.S.C. 247a), as amended, concerning Lead-Based Paint Poisoning Prevention Programs.

3. To review and award grants, except for the administration of related direct assistance, formerly authorized under section 317(a)(2) of the Public Health Service Act (42 U.S.C. 247b), as amended, for urban rat control programs.

The Director, Centers for Disease Control, has made provision for the ratification of all actions taken by the PHS Regional Health Administrators on behalf of the Director, Centers for Disease Control, consistent with the foregoing delegation, for programs formerly authorized under sections 314(d), 316, and 317(a)(2) of the Public Health Service Act, as amended.

The delegation to the PHS Regional Health Administrators, Regions I–X, became effective on August 17, 1982.

Dated: August 17, 1982.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 82-24311 Filed 9-2-82; 8:45 am]

BILLING CODE 4160-18-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 27.

Public Health Service

National Institutes of Health

Subject: Recovery from Illness Substudy of the Yale Health and Aging Project—New
Respondents: Individuals
OMB Desk Officer: Richard Eisinger

Health Resources Administration

Subject: Health Resources Administration Competing Training Grant Applications and Supplements (PHS 6025-1)—New
Respondents: Health professions educational institutions
Subject: Health Resources Administration Non-competing Training Grant Application and Supplements (PHS 6025-2)—New
Respondents: Health professions educational institutions
OMB Desk Officer: Richard Eisinger

Centers for Disease Control

Subject: Study of Health Hazards in the Painting Trades (Questionnaire for Next-of-Kin)—New
Respondents: Individuals
OMB Desk Officer: Richard Eisinger

Office of the Assistant Secretary for Health

Subject: 1983/1984 Agency Reporting System for Updating the National Master Facility Inventory—New
Respondents: Inpatient facilities for the elderly
OMB Desk Officer: Richard Eisinger

Social Security Administration

Subject: Report of Student Beneficiary About to Attain Age 22 (SSA-1389 (8-77))—Revision
Respondents: Individuals or households
Subject: Social Security Claimants Statement when Request for Hearing is Filed and the Issue is Disability (HA-4486 (3-82))—New
Respondents: Individuals or households
Subject: Application for Survivors Benefits (SSA-24)—Revision
Respondents: Individuals or households
Subject: Office of Refugee Resettlement Quarterly Performance Report (ORR-6)—New
Respondents: State or local governments
OMB Desk Officer: Milo Sunderhauf

Office of Human Development Services

Subject: Assessment of Adoption Subsidy Program—New
Respondents: Local Child Welfare Agency Workers and Supervisors, and Adoptive Parents
OMB Desk Officer: Milo Sunderhauf

Health Care Financing Administration

Subject: Regional Office Program Integrity Forms to Verify Medicaid Service (HCFA-9011)—Extension/no changes
Respondents: Individuals
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524-F, Washington, D.C. 20201

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer).

Dated: August 27, 1982.

Robert F. Sermier,

Acting Assistant Secretary for Management and Budget.

[FR Doc. 82-24131 Filed 9-2-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Utah; Rangeland Management; Availability of Draft Environmental Impact Statement; Public Hearing

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Draft Environmental Impact Statement and Public Hearing.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and a 1975 Federal Court Order, the Bureau of Land Management (BLM) has prepared a draft environmental impact statement (EIS) for the rangeland management program in the Price River Resource Area. The EIS area includes Carbon County and parts of Emery, Utah, Duchesne and Uintah Counties, Utah.

The draft EIS examines four alternative management programs: (1) Enhance Livestock Production; (2) Planning Recommendation; (3) Enhance Watershed, Wildlife, and Recreation; and (4) No Action. The objective of the alternatives is to provide a grazing management program based on multiple use and sustained yield of the natural resources on 1,087,676 acres of public land.

Copies of the draft EIS are available from the Price River Resource Area Office at 700 East 900 North, Price, Utah 84501, phone (801) 637-4584. Public reading copies will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240

Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111

Written comments on the draft EIS should be submitted by October 31, 1982 to: Leon Berggren, Area Manager, Bureau of Land Management, P.O. Drawer AB, Price, Utah 84501.

Notice is hereby given that oral or written comments will be received at a public hearing to be held as follows: October 6, 1982, 7:00 p.m. Carbon County Courthouse, Price, Utah.

Written and oral comments concerning the adequacy of the draft EIS will be considered in the preparation of the final grazing management EIS for the Price River Resource Area.

Gene Nodine,

District Manager.

[FR Doc. 82-24223 Filed 9-2-82; 8:45 am]

BILLING CODE 4310-84-M

[N-7196]

Nevada; Order Providing for Opening of Lands

August 25, 1982.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended, the following lands have been reconveyed to the United States:

Mount Diablo Meridian, Nevada

T. 35 N., R. 61 E.,
Sec. 3, Lots 3, 4, S½NW¼, SW¼;
Secs. 5, 9, 17, 21, all.
T. 36 N., R. 61 E.,
Secs. 15, 21, 33, all.

The area described comprises approximately 4,826.96 acres in Elko County, Nevada, which is within the boundaries of the Humboldt National Forest.

2. At 8 a.m. on the 30th day, commencing with the date of this publication, the land within the Forest shall be open to such forms of disposition as may by law be made of national forest lands.

3. Inquiries concerning the forest land should be addressed to the Forest Supervisor, Humboldt National Forest, P.O. Box 1072, Elko, Nevada 89801.

Richard G. Morrison,

Acting Chief, Division of Operations.

[FR Doc. 82-24226 Filed 9-2-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 12643]

Oregon; Order Providing for Opening of Public Lands

1. In an exchange of lands made pursuant to Section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1976), the following lands have been reconveyed to the United States:

Willamette Meridian

T. 15 S., R. 31 E.,
Sec. 33, SE¼NW¼, NE¼SW¼, and S½SW¼.
T. 16 S., R. 32 E.,
Sec. 14, SE¼SW¼;
Sec. 23, NE¼NW¼ and W½NW¼.

The areas described aggregate 320 acres in Grant County, Oregon.

2. At 9:30 a.m., on October 11, 1982, the lands will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:30 a.m., on October 11, 1982, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

3. At 9:30 a.m., on October 11, 1982, the lands will be open to location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: August 26, 1982.

Champ C. Vaughan,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-24237 Filed 9-2-82; 8:45 am]

BILLING CODE 4310-84-M

[N-1525]

Nevada: Classification Vacated

August 24, 1982.

1. Pursuant to the authority delegated by Bureau Order 701 and amendments thereto, the Bureau of Land Management multiple use classification N-1525 was published in the **Federal Register** on November 21, 1968 (FR Doc 68-13977) and amended by a correction published December 7, 1968 (FR Doc 68-14647). Pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411-18) and the 43 CFR 2460 regulations, this action classified approximately 1,918,796 acres of public land in Esmeralda County, Nevada, for multiple use management. The land was segregated from appropriation under the agricultural land laws. Two areas (Indian Creek Camp and Lida Summit) were further segregated from all forms of appropriation including the mining laws, but not the Recreation and Public Purpose Act (44 Stat. 741) as amended, nor the mineral leasing and material sale laws.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification is hereby vacated with the exception of the following described area known as Indian Creek Camp:

Mount Diablo Meridian, Nevada

T. 2 S., R. 34 E.,
Sec. 9, N½SW¼, SW¼SW¼, SE¼NW¼.

The area described above comprises approximately 160 acres. This area has high potential recreational value and will remain classified for a period of 5 years from the date of this publication at which time the classification will again be reviewed.

3. At 9:00 a.m. on October 4, 1982, all the land except that described in paragraph 2 above is hereby open to the operation of the agricultural land laws, subject to valid existing rights.

4. At 9:00 a.m. on October 4, 1982, the following described land known as Lida Summit will also be open to the operation of the mining laws:

Mount Diablo Meridian, Nevada

T. 6 S., R. 40 E.,
Sec. 7, SE¼NE¼.

This area comprises approximately 40 acres.

5. All the land described in the original classification remains open to the mineral leasing laws.

6. All valid applications received prior to or at 9:00 a.m. on October 4, 1982 will be considered as simultaneously filed. All other applications received will be considered in the order of filing.

Inquiries concerning this land should be addressed to the Chief, Division of Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Roger J. McCormack,

Associate State Director, Nevada.

[FR Doc. 82-24224 Filed 9-2-82; 8:45 am]

BILLING CODE 4310-84-M

[UT-910-4310-84]

Utah; Extension of Public Comment Period on Wilderness Study Areas Site Specific Analyses

ACTION: Notice.

SUMMARY: On July 30, 1982, a **Federal Register** Notice (Vol. 47, No. 147) was published announcing a 60-day public comment period on 56 wilderness study area Site Specific Analyses (SSAs) in Utah. The comment period was to end September 30, 1982. Formal requests have been received by Utah BLM State Director requesting the comment period be extended. In response to those requests the public comment period is being extended to November 30, 1982. Comments and/or information submitted by the public and received on or before the close of business on November 30, 1982, will be considered by BLM in arriving at a "preliminary preferred alternative" on each Wilderness Study Area (WSA) under study in Utah. Comments and/or information on the SSAs should be mailed to the appropriate BLM District Office which administers the specific WSA.

FOR FURTHER INFORMATION CONTACT: Kent Biddulph, Utah State Office, (801) 524–4257.

Roland G. Robison,

State Director.

August 27, 1982.

[FR Doc. 82–24225 Filed 9–2–82; 8:45 am]

BILLING CODE 4310–84–M

[INT DEIS–82–51]

Availability of Draft Environmental Impact Statement Canon City District, Wilderness Planning Amendment

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a draft environmental impact statement (DEIS) on the suitability or nonsuitability of seven wilderness study areas for designation as part of the National Wilderness Preservation System. These seven wilderness study areas are located in the Royal Gorge and San Luis Resource Areas of central and southeast Colorado. This document also proposes an amendment to existing management framework plans of the San Luis, Saguache, and Royal Gorge planning units.

Careful public review with written and verbal comments is encouraged. Public hearings will be conducted in central locations where wilderness study areas are affected.

A copy of the DEIS may be reviewed or obtained from the District Manager, Bureau of Land Management, Canon City District Office, P.O. Box 311, 3080 East Main, Canon City, Colorado 81212, and other locations listed below:

Bureau of Land Management, Public Room (Mail Code 130), Interior Building, 18th and C Streets, NW., Washington, D.C., 20240

Bureau of Land Management, Colorado, State Office, 1037 20th Street, Denver, Colorado 80202

Bureau of Land Management, Royal Gorge, Resource Area, 9th & Royal Gorge, Boulevard, P.O. Box 1470, Canon City, Colorado 81212

Bureau of Land Management, Northeast Resource Area, 10200 W. 44th Avenue, Wheatridge, Colorado 80033

Bureau of Land Management, San Luis Resource Area, 1921 State Street, Alamosa, Colorado 81101.

Written comments on the document should be submitted by December 6, 1982, to Area Manager, Bureau of Land Management, Royal Gorge Resource Area, P.O. Box 1470, Canon City, Colorado 81212. Comments on the DEIS, whether written or oral, will receive equal consideration in preparation of a final environmental impact statement (FEIS) and Wilderness Study Report. Those raising questions or issues concerning the effects of the preferred alternative, presenting new data, or questioning facts or analyses will be responded to in the FEIS. USGS and Bureau of Mines will complete mineral surveys on areas recommended for wilderness designation. These survey results along with the final environmental impact statement and recommendations will be forwarded from the Secretary of the Interior to the President and Congress.

Public meetings have been scheduled as listed below:

Tuesday, October 12, 1982, 7 p.m., Public Room, San Luis Valley Federal Savings and Loan Building, 401 Edison Street, Alamosa, Colorado;

Tuesday, October 12, 1982, 7 p.m., Community Room, First National Bank Building, 9th and Royal Gorge Boulevard, Canon City, Colorado;

Wednesday, October 13, 1982, 7 p.m., Public Room, Chaffee County Bank Building, 146 F Street, Salida, Colorado;

Thursday, October 14, 1982, 7 p.m., Little Theater, City Auditorium Building, 221 E. Kiowa Street, Colorado Springs, Colorado.

Requests to present oral statements should be received in the Canon City District Office, P.O. Box 311, Canon City, Colorado 81212, prior to close of business on October 8, 1982. Requests should identify the organization represented and should be signed by the prospective speaker. The cut-off date is necessary so a list of speakers can be available on the day of the public hearing.

George C. Francis,

State Director.

[FR Doc. 82–23986 Filed 9–2–82; 8:45 am]

BILLING CODE 4310–10–M

Fish and Wildlife Service

Information Collection 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 related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the Office of Management and Budget reviewing official, Mr. Jeff Hill, at 202–395–7340.

Title: Camping/Registration Permit Application, to issue such permits for camping on national wildlife refuges

Bureau Form Number: N/A

Description of Respondents: Individuals or households

Annual Responses: 25,000

Annual Burden Hours: 2,500

Service Clearance Officer: Arthur J. Ferguson, 202–653–8770

Don W. Minnich,

Acting Associate Director, Wildlife Resources.

August 25, 1982.

[FR Doc. 82–24222 Filed 9–2–82; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0541, Block 160, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and

procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 25, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-24217 Filed 9-2-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0248, Block 71, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 25, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-24215 Filed 9-2-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Self; Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 4270, Block 243, South Marsh Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 24, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-24216 Filed 9-2-82; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29972]

Declaratory Order; the Applicability of 49 U.S.C. 11342 to Agreements Between Household Goods Carriers and Noncarrier Agents

AGENCY: Interstate Commerce Commission.

ACTION: Corrected notice of declaratory order proceeding.

SUMMARY: Atlas Van Lines, Inc., has announced its intention to terminate the existing pooling agreement with its agents, or to seek Commission approval of an amendment to the existing agreement, to effectuate a new policy of dealing only with noncarrier agents. The Commission instituted this declaratory order proceeding to solicit public comment on certain aspects of the new Atlas policy. Specifically, the Commission is concerned with whether agents holding no operating authority themselves, but having motor carrier affiliates, are carriers for the purpose of 49 U.S.C. 11342 and whether the actions of Atlas are consistent with the goals and policies of the Household Goods Transportation Act of 1980, Pub. L. 96-454. The earlier notice in this proceeding was published at 47 FR 37717, August 26, 1982.

DATE: Comments must be filed with the Commission on or before October 4, 1982.

ADDRESS: An original and 10 copies (when possible) of each submission should be forwarded to: Deputy Director, Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Frederick T. Stocker (202) 275-7618.

SUPPLEMENTARY INFORMATION: Additional information concerning specific aspects of the proposed policy of Atlas Van Lines, Inc., is in the Commission decision instituting this proceeding served on the date of this publication. To purchase a copy of the full decision, contact T.S. Info Systems, Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4375 (D.C. Metropolitan area) or toll free 800-424-5403.

Decided: August 16, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Sterrett dissented in part with a separate expression. Commissioner Andre dissented from the institution of the declaratory investigation.

Agatha L. Mergenovich,

Secretary.

Commissioner Sterrett, Dissenting in Part

Those whom we regulate, as well as the taxpaying public generally, will be ill-served by the institution of a proceeding which never may be necessary or of any value to anyone. The institution of the declaratory order proceeding, at this time, cannot pass muster if we apply, as we should, a cost-benefit analysis to this proposed agency action. It is possible that no agents will elect either of the two options which the declaratory order proceeding would address.

Further, if we clearly explain the potential problems with the first and fifth options proposed by Atlas, it is likely that Atlas will go back to the drawing board on these two options to avoid costly litigation and further problems. Also, agents would be even less inclined to select options about which the Commission has raised questions.

It is impossible to justify the institution of a proceeding, which will be costly both to the government and to the parties, when the Commission could very easily, economically, and effectively attempt now to resolve, or diminish the likelihood of, any problems by merely explaining the potential problems which may inhere in the first and fifth options. The parties would then be in a position to initiate appropriate responses to the potential problems. For these reasons, I object to the institution of a declaratory order proceeding.

[FR Doc. 82-24457 Filed 9-2-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: August 31, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC-F-14925, filed August 5, 1982. LEE E. CHAMP, INC. (Champ) (809 West Tenth, Junction City, KS 66441)—PURCHASE (PORTION)—ECKLEY TRUCKING, INC. (Eckley) (P.O. Box 156, Mead, NE 68041). Representative: Arthur J. Cerra, 2100 Charterbank Center, P.O. Box 19251, Kansas City, MO 64141. Champ seeks authority to purchase a portion of the interstate operating rights of Eckley. Lee E. Champ and Phyllis M. Champ, who control Champ through stock ownership, seek authority to acquire control of said rights through the transaction. Champ is purchasing the operating authority contained in Eckley's certificate No. MC-5227 (Sub-No. 79F) which authorizes the transportation of *malt beverages*, between points in Denver County, CO, on the one hand, and, on the other, points in the United States. Champ is a motor common carrier pursuant to authority issued in MC-117399 and sub numbers thereunder.

Note.—An application for temporary authority has been filed.

Supplemental Publication

MC-F-14870, filed June 1, 1982. SOUTHERN FREIGHTWAYS, INC. (Southern), P.O. Box 158, Eustis, FL 32726—PURCHASE—GOLDEN TRIANGLE TRANSPORTATION, INC. (Golden), P.O. Box 2043, Columbus, MS 39701. Representative: K. Edward Wolcott, 235 Peachtree St., N.E., Ste. 1200, Atlanta, GA 30303. Southern seeks authority to purchase the interstate operating rights of Golden. Gene Baugh, who controls Southern through stock ownership and management, seeks authority to acquire control of said rights through the transaction. This application was previously published July 1, 1982. Southern also seeks to purchase additional operating rights of Golden. Those operating rights are contained in MC-147148 (Sub-No. 4) authorizing the transportation of such commodities as are dealt in or used by distributors of glass, between points in the U.S., under contract with Amworth Industries Corp.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-24214 Filed 9-2-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a

reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

F.D. No. 30013. By decision of August 27, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1141, Review Board Number 3 approved the transfer to KRAPPTON CORPORATION (Delaware corporation) of Portland, OR Certificate No. W–420 Subs 2, 3, and 4 issued to KRAPPTON CORPORATION (Washington corporation) of Portland, OR authorizing: By towing vessels and by non-self propelled vessels transporting commodities generally, between named ports and points in OR, ID, and WA along the Columbia, Snake, Clearwater, and Williamette Rivers, and along the Pacific Coast. Representative: William S. Rosen, 630 Osborn Bldg., St. Paul, MN 55102.

MC–FC–79981. By decision of August 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to SERVICE TRUCKING, INC., of Casper, WY, of Certificate No. MC–153039, issued to ROGER ADAMSON, d.b.a. CARAVEAU HOTSHOT SERVICE, of Casper, WY, which authorizes the transportation of *mercer commodities*, between points in Natrona County, WY, on the one hand, and, on the other, points in CO, ND, SD, MT, UT, and NM. Representative: Barbara Benson, 413½ N 5th Avenue MVA, Casper, WY 82604.

Note.—Transferee is not a carrier.

MC–FC–79990. By decision of August 14, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132 Review Board Number 3 approved the transfer to John Cheek and Bob Hudson, d/b/a C & G transportation Company of Houston, TX, of Certificate No. MC–161155 issued May 20, 1982, to N. J. Noll, an individual, of Houston, TX, authorizing the transportation of *bananas*, from (a) New Orleans, LA, to points in TX; (b) Houston, TX, to Albuquerque, NM; and (c) Galveston, TX, to Albuquerque, NM, Monroe, LA, Little Rock, AR, Clovis and Roswell, NM, and points in TX, OK, and AR (except Little Rock). Representative: Joe G. Fender, Attorney, 9601 Katy Freeway, Suite 320, Houston, TX 77024, 713–827–1407. TA application has been filed. Transferee presently holds no authority from the Commission.

MC–FC–79995. By decision of August 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to M.C. BROWN, d.b.a. TRUCKMART, INC., of Lowell, AR, of Certificate No. MC–5227 (Sub-No. 27), issued to ECKLEY TRUCKING, INC., of Mead, NE, which authorizes the transportation of (1) *containers*, from the facilities of Tote Systems, Division of Hoover Ball and Bearing Co., located at or near Dyersburg, TN, to points in the U.S. (except AK, HI, and TN); and (2) *equipment, materials, and supplies* used in the manufacture and distribution of containers (except commodities in bulk), in the reverse direction. Representative: Larry D. Douglas, P.O. Box 711, Springdale, AR.

Note.—Transferee is not a carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–24213 Filed 9–2–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Bitumar Inc. 11,650 Metropolitan East, Pointe-aux-Trembles, Province of Quebec, Canada.

2. Wholly-owned subsidiary which will participate in the operations, incorporated under the Canada Business Corporations Act: Les Transports Bitumar Inc., 11,650 Metropolitan East, Pointe-aux-Trembles, Province of Quebec, Canada.

1. Parent Corporation and address of principal office: A. Burlington Industries, Inc., 3330 West Friendly Avenue, Post Office Box 21207, Greensboro, North Carolina 27420.

2. Wholly-owned subsidiaries which will participate in the operation, address of its principal offices, and state and country of incorporation:

A. B.I. Transportation, Inc., Tucker Street Extension, Post Office Box 691, Burlington, North Carolina 27215. Incorporated in the State of Delaware.

B. Burlington Canada Inc., 205 Bouchard Boulevard, Dorvale, Quebec H9S 1A9. Incorporated in Canada.

C. Textile Morelos, S.A. de C.V., San Juan del Aguila No. 401, Cuetnazaca, Motelos, Mexico. Incorporated in Mexico.

D. Noblis-Lees, S.A. de C.V., Calzada Ermita-Ixtapalapa, No. 401 Local "C", Colonia Unidad Modelo, Mexico 13 D.F. Mexico. Incorporated in Mexico.

1. Parent corporation and address of principal office: TMI Corporation, 050 Third Avenue West, Dickinson, ND 58601.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) TMI Systems Design Corp., an Iowa corporation.

(ii) TMI Transport Corp., a North Dakota corporation.

(iii) Bartley Supply Company, a Minnesota corporation.

1. Parent Corporation and address of principal office: Universal Management Corporation, Highway 45 South, Post Office Box 192, Columbus, Mississippi 39701.

2. Wholly-owned subsidiaries which will participate in the operations and state of incorporation:

(I) Five Star Corporation-Delaware.

(II) Century Transportation Corporation-Mississippi.

(III) Universal Industries Corporation-Mississippi.

(IV) MBI International Corporation-Mississippi.

(V) Vital Systems, Inc.-Nevada.

(VI) Universal Health Services, Inc.-Alabama.

(VII) Two Bits, Inc.-Mississippi.

(VIII) UDI Corporation-Delaware.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-24208 Filed 9-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP2-203];

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grant of operating right authority is republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of an appropriate petition for leave to intervene, setting forth in detail the precise manner in which petitioner has been prejudiced, must be filed with the Commission within 30 days after the date of this **Federal Register** notice.

By the Commission.

Agatha L. Mergenovich,

Secretary.

MC 158613 (republication) filed December 8, 1981, published in the **Federal Register** of January 12, 1982, and republished this issue: Applicant: TRICOR BUSINESS GROUP, INC., 1242 Tatamy Road, Easton, PA 18402. Representative: Roger D. Hershman, 22 Olde Mill Run, Medford, NJ 08055. A decision of the Commission, *Division 1,* decided July 19, 1982, and served July 22, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier,* by motor vehicle, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the United States (except Alaska and Hawaii); that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the scope of authority.

[FR Doc. 82-24207 Filed 9-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 28640 (Sub-9)]

Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St., Paul & Pacific Railroad Co., Debtor; Amended Plan of Reorganization; Intent

Decided: August 30, 1982.

Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (MILW) and Grand Trunk Corporation (GTC) have notified the Commission that they intend to file an Amended Plan for Reorganization with the United States District Court for the Northern District of Illinois (Court). The amended plan will be filed with the Commission between November 5, 1982, and February 5, 1983, and will supplant the Revised Plan of Reorganization dated September 15, 1981, previously filed with the Commission.

The amended plan will seek authority for GTC to obtain stock control of the reorganized MILW. The reorganized MILW will operate a 2,900-mile core system in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, South Dakota and Wisconsin.

GTC is a wholly owned subsidiary of the Canadian National Railroad Company which operates primarily in Canada. GTC controls two subsidiaries, the Duluth, Winnipeg & Pacific Railroad Railway Company (DWP) and the Grand Trunk Western Railroad Company (GTW). The DWP is a class II railroad operating between Ranier and Duluth, MN. It interchanges with MILW at Duluth. The GTW is a class I railroad operating in Ohio, Michigan, Indiana, and Illinois. GTW interchanges with MILW at Chicago, IL. GTW also wholly owns the Detroit, Toledo & Ironton Railroad Company (DT&I), a class I railroad operating in Ohio and Michigan.

The Commission's jurisdiction over the transaction is derived from section 77 of the Bankruptcy Act. Since the transaction contemplates the common control by GTC of the MILW, GTW, DWP and DT&I, it would be considered a major transaction involving two or more class I railroads if the application had been filed under 49 U.S.C. 11343. In preparing the amended plan GTC and MILW should be guided by the requirements for exhibits and data set forth at 49 CFR 1111 *et. seq.* However, prospective parties should be aware that the Commission may not be able to use the timeframes set out in 49 U.S.C. 11345 or 49 CFR 1111.4 if the Court seeks to issue a ruling no later than July 1, 1984.

GTC and MILW intend to prepare an analysis measuring the impact of the control transaction. This analysis will be based upon traffic for the 1981 calendar year.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-24210 Filed 9-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-359N)]

Conrail Abandonments in Wilkes-Barre, PA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission has exempted Luzerne Properties, Inc. pursuant to 49 U.S.C. 10505, from 49 U.S.C. subtitle IV in connection with a line it proposes to purchase in Docket No. AB-167 (Sub-No. 359N), Conrail Abandonments in Wilkes-Barre, PA.

DATES: This exemption will become effective on August 31, 1982. Petitions to reopen must be filed no later than September 20, 1982.

ADDRESSES:

Send petitions to: (1) Interstate Commerce Commission, Section of Finance, Room 5417, Washington D.C. 20423

(2) Petitioner's representative: Sander M. Bieber, 1730 Pennsylvania Avenue NW., Washington D.C. 20006.

Pleadings should refer to Docket No. AB-167 (Sub-No. 359N).

FOR FURTHER INFORMATION CONTACT:

Louis E. Gitomer, (202) 275-7245

or

Wayne Michel, (202) 275-7657.

SUPPLEMENTARY INFORMATION: For additional information, see the Commission's decision in Docket No. AB-167 (Sub-No. 359N). To purchase copies of the full decision contact TS InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423 or call toll free 800-424-5403 or 289-4357 in the DC Metropolitan area.

Decided: August 30, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-24209 Filed 9-2-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on October 7, 1982 (from 9:00 a.m. to 5:00 p.m.), in the Ballroom of the Armour J. Blackburn University Center of Howard University, Dumbarton Campus, 2900 Van Ness Street, Washington, DC 20008.

The Committee will discuss collaboration between universities and private voluntary organizations (PVOs) in development assistance. Among the areas of collaboration to be discussed are AID's role in improving university-PVO relations; case studies of university/PVO collaboration; and initiatives to be taken for developing expanded relations.

On October 8, 1982 (from 9:00 a.m. to 1:00 p.m.) the following subcommittees of the Advisory Committee on Voluntary Foreign Aid will meet: The PVO/Corporate Collaboration Subcommittee; the University/PVO Relations Subcommittee; the Development Education Subcommittee will meet at Howard University Armour J. Blackburn University Center, Dumbarton Campus, 2900 Van Ness Street NW., Washington, DC 20008; and the AID/PVO Policy Subcommittee will meet in the conference room of the Cooperative League of the U.S.A., 1828 L Street, NW., Washington, DC 20036.

The meetings will be open to the public. Any interested person may attend, request to appear before, or file statements with the Advisory Committee in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in twenty copies.

There will be an AID representative at the meetings. It is suggested that those desiring further information contact Dr. Toye Brown Byrd (703) 235–2708 or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, DC 20523.

Dated: August 27, 1982

Julia Chang Bloch,

Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 82-24232 Filed 9-2-82; 8:45 am]

BILLING CODE 6116-01-M

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 23, 1982–August 27, 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–13,057; Morton Chemical Co., Div. of Mortonnorwich, Manistee, MI

TA–W–13,114; Grand Fashions, Inc., Hoboken, NJ

TA–W–13,112; Embassy Produce Corp., Ridgewood, Queens, NY

TA–W–13,091; Paragon Gears, Inc., Taunton, MA

TA–W–13,079; Davis-EN-Tech, Lundsten Plastics, Flint, MI

TA–W–13,098; Champion Spark Plug Co., Detroit Ceramic Div., Detroit, MI

TA–W–13,015; Delton, LTD, New York, NY

TA–W–13,067; General Electric Co., Television Component Products Dept., Syracuse, NY

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified,

TA–W–13,012; Uniforms By Ostwald, Inc., Staten Island, NY

Aggregate U.S. imports of marching band uniforms are negligible.

TA–W–13,125; Braddock Frosted Foods, Inc., Hammonton, NJ

Aggregate U.S. import of processed fish sticks and fish portions are negligible,

Affirmative Determinations

TA–W–13,262; Georgetown Steel Corp., Georgetown, SC

A certification was issued in response to a petition received on February 8, 1982 covering all workers separated on or after October 1, 1981.

TA–W–13,262A; Georgetown Ferreduction, Georgetown, SC

A certification was issued in response to a petition received on February 8, 1982 covering all workers separated on or after October 1, 1981.

TA–W–13,064; Onyx Blouse Co., Inc., Pottsville, PA

A certification was issued in response to a petition received on October 16, 1981 covering all workers of Onyx Blouse Co., Inc., Pottsville, PA who became totally or partially separated from employment on or after January 1, 1981 and before June 30, 1982.

TA–W–13,064A; Onyx Blouse Co., Inc., New York, NY

A certification was issued in response to a petition received on October 16, 1981 covering all workers of Onyx Blouse Co., Inc., New York, NY who became totally or partially separated from employment on or after January 1, 1981 and before June 30, 1982.

TA–W–13,064B; Dearborn, Inc., New York, NY

A certification was issued in response to a petition received on October 16, 1981 covering all workers of Dearborn, Inc., New York, NY who became totally or partially separated from employment on or after January 1, 1981 and before June 30, 1982.

TA–W–13,064C; Poppa Max, Inc., New York, NY

A certification was issued in response to a petition received on October 16, 1981 covering all workers of Poppa Max, Inc., New York, NY who became totally or partially separated from employment

on or after January 1, 1981 and before June 30, 1982.

I hereby certify that the aforementioned determinations were issued during the period August 23, 1982–August 27, 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 31, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-24301 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,473]

Arvin Outerwear, Inc., Union City, N.J.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 31, 1982, in response to a worker petition received on May 18, 1982, which was filed by the International Ladies' Garment Workers Union on behalf of workers at Arvin Outerwear, Incorporated, Union City, New Jersey.

A negative determination applicable to the petitioning group of workers was issued on May 28, 1982 (TA-W-12,569). No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 25th day of August 1982.

Robert Carpenter,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-24299 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,634]

Norris Industries, Inc., Compressed Gas Cylinders Division, Wisconsin Plant, West Milwaukee, Wis.; Ternination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 12, 1982, in response to a worker petition received on June 30, 1982, which was filed by the United Steelworkers of America on behalf of workers at the West Milwaukee, Wisconsin plant, Compressed Gas Cylinders Division of Norris Industries, Incorporated.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-13,411). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 25th day of August 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-24300 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,166]

Tomalino Sportswear, Brooklyn, N.Y.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 28, 1981 in response to a worker petition received on December 21, 1981 which was filed by the International Ladies' Garment Workers Union on behalf of workers at Tomalino Sportswear, Brooklyn, New York.

The Department of Labor has received no correspondence with respect to locating officials of Tomalino Sportswear. The firm in question has gone out of business. It has not been possible to contact officials of the firm or to gain access to any records, ledgers or documents concerning the firm. Therefore, the investigation has been terminated.

Signed at Washington, D.C., this 27th day of August 1982.

Robert Carpenter,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-24302 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-135; Exemption Application No. D-2630]

Exemption From the Prohibitions for Certain Transactions Involving the Alaska Electrical Pension Fund Located in Anchorage, Alaska

AGENCY: Office of Pension and Welfare Benefit Programs.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would exempt: (1) Retroactively and prospectively the leasing of office space by the Alaska Electrical Pension Fund (the Plan) to various tenants who provide a wide range of services to the Plan (the Service Provider(s)), and (2) retroactively the extension of credit between the Plan and Steve Noey and Associates, Ltd. (Noey) one of the Service Providers.

EFFECTIVE DATES: The exemption involving the leasing arrangements is effective from July 1, 1976 and the exemption involving the extension of credit would be effective between the dates July 22, 1981 and August 14, 1982.

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-6915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 5, 1982, notice was published in the Federal Register (44 FR 9607) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code, for the above described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that a copy of the notice was distributed to interested persons in accordance with the requirements set forth in the notice. No public comments were received by the Department. To ensure clarification regarding the scope of this individual exemption, the Department has determined it appropriate to expressly restate the scope of that portion involving leasing of office space. The Buildings described in the exemption are only those commercial office buildings currently owned by the Plan—Denali Towers North and South. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirements of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply: (1) Effective July 1, 1976 to the leasing of office space in the Buildings to the Service Providers; and (2) between July 22, 1981 and August 14, 1981 to the extension of credit between Noey and the Plan, provided: (a) That the extension of credit transaction and each lease transaction which has taken place or will take place was and/or will be on terms no less favorable to the Plan than terms available in an arm's-length transaction with an unrelated third party; (b) The Plan maintains or causes to be maintained during the period of any leasing arrangement such records as are necessary to enable the persons described in paragraph (c) to determine whether the conditions of this exemption have been met except that (i) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such period and (ii) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph (c) below; and (c) Nothwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) are unconditionally available at their customary location for examination during normal business hours by; (i) the Department or the Internal Revenue Service, (ii) Plan participants and beneficiaries, (iii) any employer of Plan participants and beneficiaries, (iv) any employee organization any of whose members are covered by the Plan, (v) any trustee of the Plan, or (vi) any duly authorized employees or representatives of a person described in subparagraphs (i) through (v) of this paragraph.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Wshington, D.C., this 30th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–24338 Filed 9–2–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–3478]

Proposed Exemption for a Certain Transaction Involving the Ralph D. Anderson, M.D., Inc., Defined Benefit Pension Plan Located in Newport Beach, California

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of an $85,000 face value note (the Note) by Ralph D. Anderson, M.D., (Anderson), the owner of 100% of the capital stock of Ralph D. Anderson, M.D., Inc. (the Plan Sponsor) to the Ralph D. Anderson, M.D., Inc. Defined Benefit Pension Plan (the Plan). Because Anderson is the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code. The proposed exemption, if granted, would affect the Plan, Anderson and others participating in the proposed transaction.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 3, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–3478. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of

Anderson, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit pension plan with one participant, Anderson. Anderson is also the Plan trustee.

2. The Plan Sponsor is a professional corporation. Anderson is the sole employee of the Plan Sponsor. Anderson and his wife are the trustees of the Anderson Family Trust (the Trust), a revocable trust established in 1973. The Trust owns 100% of the capital stock of the Plan Sponsor. The applicant represents that since the Trust is revocable, Anderson may be considered to be the constructive owner of all of the capital stock of the Plan Sponsor.

3. Anderson currently owns a note payable (the Note) to himself and drawn jointly by Victor G. and Olive F. Rumbellow (the Rumbellows). The Note resulted from a sale by Anderson of real property to the Rumbellows, who are unrelated to Anderson and the Plan. The original purchase price of the real property by Anderson was $230,000. A separate note secured by the first deed of trust reflects an original face value of $159,000, and has a current balance of approximately $77,000.

4. Anderson wishes to sell the Note to the Plan at its fair market value. The Note, secured by a second deed of trust, reflects a face value of $85,000 with interest at 8 percent and has a remaining balance of approximately $72,502. The Note has monthly payments through June 15, 1992 of $637.50.

5. The fair market value of the Note has been established at $49,156 as of April 27, 1982. This amount is based upon an independent appraisal of the Note performed by Newport Home Loan, Inc. The acquisition by the Plan will consititute less thkan 18 percent of the Plan's assets.

6. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408 of the Act because:

(1) The Note will represent less than 18 percent of Plan assets;

(2) The Note will be sold to the Plan at its fair market value; and

(3) The Plan trustee has determined that the proposed transaction is in the interests of and protective of the Plan.

Notice to Interested Persons

Because Anderson is the only participant in the Plan, it has been determined that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) throught (E) of the Code shall not apply to the sale of the Note by Anderson to the Plan so long as the terms of the sale are no less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration. U.S. Department of Labor.

[FR Doc. 82–24328 Filed 9–2–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–3258]

Proposed Exemption for Certain Transactions Involving Atlanta Pathology Professional Association Profit Sharing Plan and Trust (the Plan) Located in Atlanta, Georgia

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) The proposed sale of a portion of a promissory note to the Atlanta Pathology Professional Association Profit Sharing Plan and Trust (the Plan) by John B. Otis, a party

in interest with respect to the Plan. The sale will involve only the individual account of Mr. Otis; and (2) the extension of credit by Mr. Otis to his account, in connection with the sale of the promissory note. The proposed exemption, if granted, would affect Mr. Otis, the Plan and its participants and beneficiaries.

DATE: Written comments and requests for a public hearing must be received by the Department on or before October 4, 1982

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3258. The application for exemption and the comments recieved will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from a the restrictions of section 406(a), 406(b) (1) and (2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by Mr. Otis, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined contribution plan with 18 participants as of February 18, 1982. The trustees (Trustees) of the Plan are John B. Otis, Robert E. DeLashmutt, R. B. Hornberger and Stephen P. Bondell, all of whom are officers, directors and shareholders of Atlanta Pathology Professional Association (the Employer), the Plan sponsor.

2. Mr. Otis is the holder and payee of a promissory note which was issued on November 3, 1981 by SmithKline Corporation, in the orginal principal amount of $311,310. The note bears interest at 10 percent. The note matures on November 3, 1986. The note is guaranteed by an irrevocable letter of credit issued by Girard Bank of Philadelphia, dated November 2, 1981 and maturing December 18, 1986. SmithKline Corporation is a large ethical drug manufacturer. SmithKline Corporation has agreed to substitute two smaller notes in place of the large note. Mr. Otis proposes to sell one of these notes (the SmithKline Note) to the Plan. The transaciton will be directed by Mr. Otis and will involve solely his own individual account, which currently has a balance of $140,000.

3. The SmithKline Note will be in the principal amount of $182,310 and the purchase price will be $175,000. The discount of the principal amount of the SmithKline Note was determined by Mr. Richard Whitehead, an investment advisor who is independent of Mr. Otis and the Employer, by discounting the future payments under the SmithKline Note at a rate of interest which, under current market conditions, will result in a purchase price that represents the fair market value of the SmithKline Note. Mr. Whitehead compared the SmithKline Note with similar investments available to the Plan and concluded that the future payments of principal and interest should be discounted at 17.5 percent.

4. The Plan will pay Mr. Otis $40,000 in cash from Mr. Otis' account on November 3, 1982 and execute a promissory note (the Plan Note) for the balance of $135,000. The Plan Note will call for a payment of $75,000 on January 3, 1983 and equal installments of $15,000 payable on November 3, 1983 and each succeeding November 3rd until November 3, 1986. The Plan will pay no interest on the Plan Note. The SmithKline Note will yield total principal and interest of $293,598 upon muturity. This will result in a net yield to Mr. Otis' account of 17.5% per annum on its investment in the SmithKline Note. This rate of return takes into account all payments due under the Plan Note.

5. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) due to the following:

(a) The sale of the SmithKline Note will be directed by Mr. Otis and will involve solely Mr. Otis' own individual account;

(b) The SmithKline Note will be sold at its fair market value as determined by Mr. Whitehead;

(c) The SmithKline Note is secured by a letter of credit issued by Girard Bank;

(d) Mr. Otis' account will earn a net return of 17.5% per annum on its investment in the SmithKline Note; and

(e) The Plan will pay no interest on the Plan Note.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Because the sale of the Note involves solely Mr. Otis' individual account, the Department believes that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the

Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The sale of the Smith-Kline Note by Mr. Otis to his individual account, provided that the terms and conditions of the sale are at least as favorable as those that could be obtained from an unrelated third party; and (2) the Plan Note, which results in an extension of credit by Mr. Otis to his individual account.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of August, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24331 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-139; Exemption Application No. D-3266]

Exemption from the Prohibitions for Certain Transactions Involving Bonacker & Leigh, Inc. Profit Sharing Plan Located in Miami, Florida

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the loan of $300,000 by the Bonacker & Leigh, Inc. Profit Sharing Plan (the Plan) to Bonacker Leigh, Inc. (the Employer), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 25, 1982, notice was published in the **Federal Register** (47 FR 27640) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the transaction described in an application filed by the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is suplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the

Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan of $300,000 by the Plan to the Employer, provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transaction.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24342 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2692]

Withdrawal of Proposed Exemption for Certain Transactions Involving the Boyles Furniture Employees Profit Sharing Plan and Trust Located in High Point, North Carolina

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Withdrawal of proposed exemption.

On May 21, 1982, the Department of Labor (the Department) published in the **Federal Register** (47 FR 22260) a notice of pendency of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1954. The notice of pendency concerned an application filed by the Boyles Furniture Sales, Inc. on behalf of the Boyles Furniture Employees Profit Sharing Plan and Trust.

On July 1, 1982, the applicant notified the Department that it was no longer seeking an exemption for the transaction as it is presently described in the above cited notice. Accordingly, the applicant requested that the application for exemption be withdrawn from consideration by the Department. The Department concurs with the request. The notice of pendency is hereby withdrawn.

Signed at Washington, D.C., this 30th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24337 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-142; Exemption Application No. D-3402]

Exemption From the Prohibitions for Certain Transactions Involving the Cargill Group Life Insurance Plan for Office, Sales and Supervisory Employees Maintained by Cargill, Inc., Located in Minneapolis, Minnesota

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts, under certain conditions, the reinsurance by the Summit National Life Insurance Company (Summit) of group life insurance contracts sold to Cargill, Incorporated (the Employer) on behalf of the Cargill Group Life Insurance Plan for Office, Sales and Supervisory Employees (the Plan) maintained by the Employer. Summit is a party in interest with respect to the Plan.

EFFECTIVE DATE: This exemption is effective January 1, 1975.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 29, 1982, notice was published in the **Federal Register** (47 FR 28178) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406 (a) and (b) of the Employee Retirement Income Security Act of 1974 (the Act), for transactions described in an application filed on behalf of the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the notice to interested persons requirements as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption is supplemental to, and not in derogation of, any other provisions of the Act including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, effective January 1, 1975, the restrictions of sections 406 (a) and (b) of the Act shall not apply to the reinsurance of risks and the receipt of premiums therefrom by Summit from the group life insurance contracts sold by the Prudential Insurance Company of America to the Employer to provide benefits to the Plan, subject to the conditions set forth in the notice of proposed exemption.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 30th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24333 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3127]

Proposed Exemption for Certain Transactions Involving the DLD Distributing Company of Wyoming Employees Profit Sharing Retirement Plan Located in Salt Lake City, Utah

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of certain real property by the DLD Distributing Company of Wyoming Employees Profit Sharing Retirement Plan (the Plan) to DLD Distributing Company (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Employer and other persons participating in the transaction.

DATE: Written comments and requests for a public hearing must be received by the Department on or before October 14, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3127. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan by Denton L. Dunn, Jr., the trustee of the Plan (the Trustee), pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with approximately sixteen participants and net assets of $720,126 on December 31, 1981. Investment decisions for the Plan are made by the Trustee, who is also a vice president of the Employer. The Employer is a seller of bulk petroleum products and an operator and lessor of retail gasoline service stations.

2. In February, 1981 the Plan purchased from an unrelated party an 8.8 acre parcel of undeveloped real property (the Property) located between 1836 South Street and 300 West Street in Salt Lake City, Utah for $910,245. The Plan paid $281,873 in cash and signed a deed of trust note for the remaining $628,372. The applicants state that the Property was purchased at a favorable price at a time when land values in the area were appreciating substantially. The Property has not generated any income for the Plan other than appreciation since it was purchased. On May 26, 1981 the Plan sold a 4.28 acre portion of the Property to an unrelated party for $651,000. Due to a re-evaluation of investment goals in light of current economic conditions, the Trustee has determined that it would now be in the best interest of the Plan to sell the remaining 4.52 acre parcel of the Property (the Parcel) for its appraised fair market value. The Trustee represents that such sale will allow the Plan to maintain a higher degree of liquidity and to realize a substantial return on its investment. The applicants state that as of March 23, 1982 the Plan had invested a total of $471,784 in the Parcel, which includes the purchase price, title and escrow fees, taxes and maintenance costs.

3. The Employer, which owns a nearby but not adjacent facility, has offered to purchase the Parcel from the Plan at its appraised fair market value. The Employer intends to use the Parcel in its business and to construct a storage and secured parking facility thereon. The sale will be for cash and no commissions will be paid.

4. An appraisal of the Parcel was made on November 15, 1981 by Zane D. Bergeson, M.A.I. (Bergeson) of Salt Lake City, Utah. Bergeson, who is independent of all parties to the proposed transaction, stated that the fair market value of the Parcel on that date was $591,000 and that, in his opinion, the Property has no special value to the Employer that would warrant a purchase price greater than the appraised fair market value. The applicants explain that while this amount results in a lower per-acre value than the 4.28 acre portion of the Property, this is due to the fact that the Parcel does not have freeway exposure, which the other portion has, and is more encumbered by Salt Lake City zoning requirements, making it less valuable on a per-acre basis.

5. In summary, the applicant represents that the proposed sale of the Parcel meets the statutory criteria for an exemption under section 408(a) of the Act because: (1) It is a one-time transaction for cash; (2) the purchase price for the Parcel was determined by a qualified, independent appraiser; (3) the

Plan will be able to dispose of a non-income producing asset for a profit and reinvest the proceeds in income-producing assets, without paying a commission; (4) the Plan's liquidity will be enhanced; and (5) the Trustee has determined that the transaction is appropriate for the Plan and is in the best interests of the Plan's participants and beneficiaries.

Notice to Interested Persons

Notice will be hand delivered to all the Plan's participants within 10 days of the publication of the proposed exemption in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform the Plan's participants of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale of the Parcel by the Plan to the Employer for $591,000, provided that such amount is not less than the fair market value of the Parcel on the date of the sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of August, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24328 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3163]

Proposed Exemption for Certain Transactions Involving the F-W Industries, Inc. Profit Sharing Plan Located in Lubbock, Texas

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed purchase of a negotiable promissory note executed by an unrelated third party (the Note), by the individual accounts of Mr. L. H. Fox (Mr. Fox) and Mr. C. E. Wood (Mr. Wood) in the F-W Industries, Inc. Profit Sharing Plan (the Plan), from F-W Industries, Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect Mr. Fox, Mr. Wood and the Employer.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 4, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. D-3163. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FUTHER INFORMATION CONTACT: Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by Mr. Fox and Mr. Wood, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code,

and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer is a Texas corporation whose issued and outstanding stock is owned 50 percent by Mr. Fox and 50 percent by Mr. Wood. Mr. Wood and Mr. Fox are, respectively, the president and secretary of the Employer. Mr. Fox and Mr. Wood are also the trustees (the Trustees) of the Plan. On October 31, 1981 the Plan had four participants and net assets of approximately $397,000. On January 13, 1982 the Plan was amended to provide for segreated investment accounts and to allow each participant to direct the Trustees as to the investment of his or her segregated account. Pursuant to this amendment to the Plan, Mr. Fox and Mr. Wood request an exemption to permit them, as participants in the Plan, to purchase the Note from the Employer for its appraised fair market value. If the proposed exemption is granted, the purchase price will be charged equally to the individual accounts of Mr. Wood and Mr. Fox. The only other two participants in the Plan, whose accounts will not participate in this transaction, have combined account balances totalling approximately $37,000.

2. The Note represents payment to the Employer by American Turbine Pump Company, Inc. and Irrigation Machine & Supply, Inc. (collectively, the Companies) for a 20.777 acre tract of improved real estate (the Property) which was sold to the Companies by the Employer on September 1, 1981. The Note, which is in the amount of $330,000, is secured by a first deed of trust lien on the Property. The Property was appraised at $518,800 on March 29, 1982 by Mr. Gary C. Burkleo (Burkleo), president of Hallmark Builders of Lubbock, Texas. The Companies, their shareholders and Burkleo are independent of the Employer. The Employer, who is the unencumbered owner and holder of the Note, represents that all payments on the Note have been made by the Companies in a timely manner. The Note carries an interest rate of 12 percent per annum, payable to the Employer over twenty years in 240 monthly installments of principal and interest.

3. The Note was appraised on April 12, 1982 by the real estate department of Lubbock National Bank in Lubbock, Texas (the Bank). The Bank, which is independent of the Employer and principals of the Employer, determined that the fair market value of the Note on April 12, 1982 was $250,020.13, representing a discount of 23.68 percent from the outstanding balance on that date of $327,593.33. This discount raises the return on the Note from 12 percent per annum to 16.75 percent per annum. The applicants propose that the individual accounts of Mr. Fox and Mr. Wood in the Plan purchase the Note from the Employer for the remaining balance of the Note on the date of sale, discounted by 23.68 percent, plus the accured interest on the Note as of the date of sale.

4. The Note will be endorsed over, without recourse, to the Trustees of the Plan for the segregated investment accounts of Mr. Wood and Mr. Fox, and all liens securing the payment of the Note will be assigned by the Employer to the Trustees of the Plan to continue securing the payment of the Note. No commissions or other fees will be charged or received by any person in connection with this proposed transaction. Mr. Wood and Mr. Fox each have an estimated account balance in the Plan of approximately $180,000 and are each 90 percent vested in their accounts as of October 31, 1981.

5. Mr. Fox and Mr. Wood, the only Plan particpants whose rights will be affected by the granting of this proposed exemption, state that this is a favorable investment opportunity for their accounts in the Plan.

6. In summary, the applicants represent that the proposed transaction meets the statutory criteria of section 408(a) of the Act as follows:

(a) This is one-time transaction for cash;

(b) No commissions or other fees will be lievied against the Plan with respect to the transaction;

(c) The Note will provide a high rate of return on a secure investment; and

(d) Mr. Fox and Mr. Wood, the only participants in the Plan affected by this transaction, have approved the proposed transaction and desire that it be consummated.

Notice to Interested Persons

Publication of this notice of pendency in the **Federal Register** will constitute the notification to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed purchase of the Note by the individual accounts of Mr. Wood and Mr. Fox in the Plan, from the Employer, provided that the purchase price of the Note is not greater than the fair market value of the Note on the date of sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day August, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–24336 Filed 9–2–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–3090]

Proposed Exemption for Certain Transactions Involving the Falley's, Inc. Profit Sharing Plan Trust Located in Topeka, Kansas

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the purchase by the Falley's, Inc. Profit Sharing Plan Trust (the Plan) of an interest in certain real property (the Real Property) from Falley's, Inc. (the Employer) and the leaseback of such interest to the Employer. The proposed exemption, if granted, would affect the Employer, the Plan trustee, the participants and beneficiaries of the Plan and other persons participating in the transactions.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 18, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–3090. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reasons of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer is engaged in the retail grocery business in Kansas and Missouri. The Employer maintains its principal offices in Topeka, Kansas and operates some of its stores under the Food-4-Less trade name.

2. The Plan is a profit sharing plan providing pension and disability benefits to non-union, full-time employees of the Employer. On July 13, 1982, the Plan had an estimated 313 participants and total assets of approximately $1,250,000. The trustee of the Plan (the Trustee) is Southwest Bank and Trust Company of Topeka, Kansas. The Trustee makes investment decisions for the Plan.

3. The subject transactions involve the purchase of an interest in the Real Property by the Plan from the Employer. The Plan will disburse 40 percent of its assets for the acquisition. The Real Property consists of land (the Land) and a building (the Building). The Land is made up of three acres of commercial property located at Ridge Road and Central Avenue in Wichita, Kansas. The Employer acquired the Land from unrelated parties under the terms of a real estate purchase contract executed on October 20, 1981. The purchase price for the Land was $326,687.

4. The Building, which is in the process of construction, is a discount food store based on the "no frills" concept whereby customers assist store employees in affixing prices to merchandise as well as in bagging their own groceries in an effort to reduce the store's operating costs. The store will conduct business under the Food-4-Less trade name. It is estimated that the Building will cost approximately $711,000 to construct. The Plan will not disburse its assets until the Building is completed and ready for occupancy by the Employer. At this time, one lump sum payment will be made.

5. Following completion of the Building, the Employer proposes to transfer a leased fee interest in the Real Property to the Plan. Upon closing of the transaction, complete title to the Real Property will be vested in the Plan and the deed will be properly recorded. The deed will be retained in escrow, pursuant to an escrow agreement (the Escrow Agreement) entered into by the Employer, the Plan and an independent fiduciary designated to oversee the proposed transactions. The Employer will then lease the Real Property from the Plan under the terms of a lease (the Lease). The Lease will be a triple net lease whereby the Employer will be responsible for the payment of all taxes, insurance and repairs. The Lease will run initially for twenty years and will give the Employer two renewal options, each of ten years duration. The annual

rental will be the greater of: (a) 15 percent of the Plan's contribution to the total purchase price per year; or (b) 1 percent of the gross sales multiplied by the percentage ratio of the Plan's contribution to the total cost of the Real Property. If the Lease expires or is otherwise terminated, the independent fiduciary will remove the deed from escrow and have it delivered to the Plan. If the Real Property is then sold, the Plan will receive the total sale proceeds. If the Lease is terminated due to a condemnation proceeding, the Plan and Employer will share in the condemnation award as may be agreed upon (the independent fiduciary will represent the Plan in such negotiations). Further, the applicant represents that Kansas law provides that state courts have the authority to divide a condemnation award between the Plan and the Employer if the parties cannot agree on such division.

6. Messrs. David Craig and William Michael Rinner, qualified independent real estate appraisers (the Appraisers) with the real estate appraisal and consulting firm of David Craig and Company of Topeka, Kansas, have determined the fair market value of the Plan's interest in the Real Property in an appraisal of April 16, 1982. At the time of consummation of the proposed transactions, the Plan will invest 40 percent of its assets. The amount invested will range from approximately $480,000 to $650,000, depending upon the value of Plan assets at that time. The Appraisers have determined that the Plan's interest in the Real Property will have a fair market value equal to the amount of the actual investment to a maximum of $650,000. In arriving at this conclusion, the Appraisers have considered the rental payments to be received by the Plan under the Lease. The Appraisers estimate that the total cost of the Land and Building will be $1,100,000, and the Plan's investment will thus represent approximately 44 to 59 percent of the estimated cost. The Appraisers state that the location is a good location for a discount food store and the improvements are suitable for this use.

7. Highland Park Bank and Trust Company (Highland) of Topeka, Kansas will serve as the independent fiduciary for the Plan with respect to the proposed transactions. Highland represents it has no present business relationship with the Employer and as the independent fiduciary, it will act as a trustee and escrow agent in overseeing all financial transactions between the parties and will represent the interests of the Plan. Pursuant to the Escrow Agreement, Highland will establish a trust account to handle the disbursement of Plan funds and receipt of rental income from the Employer. Highland will also have absolute power to approve or disapprove any decision by the Trustee to sell the Real Property. Finally, Highland will be authorized to review documentation to determine the accuracy of rental computations and to ensure rental payments, taxes and insurance premiums are made by the Employer.

Highland believes the terms of the proposed transactions are appropriate for the Plan and in the best interests of its participants and beneficiaries. Highland has reviewed the terms of the proposed Lease and represents that under today's economic conditions, the return is fair and represents an arm's length transaction between the parties. In addition, Highland represents it has examined the overall Plan portfolio; considered the Plan's cash flow needs, including the assets that might have to be sold to meet the liquidity requirements; examined the diversification of Plan assets in light of the proposed investment; and examined the proposed transactions in view of the overall investment objectives of the Plan.

8. In summary, it is represented that the proposed transactions will satisfy the statutory criteria set forth in section 408(a) of the Act because: (a) Highland, as the independent fiduciary, has approved the transactions and will monitor their terms and conditions; and (b) the fair market value of the investment has been determined by qualified independent appraisers.

Notice to Interested Persons

Notice of the proposed exemption will be given to all current and former employees of the Employer who are participants in the Plan within 10 days of the publication of the notice of pendency in the **Federal Register.** The notice will include a copy of the notice of pendency as published in the **Federal Register** and will inform interested persons of their right to comment and/or request a hearing with respect to the pending exemption. Notice will be provided to current employees of the Employer by personal delivery and by first class mail to former employees of the Employer who participate in the Plan.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section

408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the acquisition by the Plan from the Employer of an interest in the Real Property and the leaseback to the Employer of such interest, as described above, provided the terms and conditions of the transactions are at least as favorable as those which the Plan could receive in similar transactions with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of August, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24327 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-2878, D-2879, and D-2880]

Proposed Exemption for Certain Transactions Involving First Alliance Mortgage Company Pension Plan, First Alliance Mortgage Company Profit Sharing Plan, and First Alliance Mortgage Company Defined Benefit Pension Plan Located in Santa Ana, California

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt for a period of five years (1) the placement by First Alliance Mortgage Company (the Employer) of second trust deeds with First Alliance Mortgage Company Pension Plan, First Alliance Mortgage Company Profit Sharing Plan, and First Alliance Mortgage Company Defined Benefit Pensio Plan (the Plans) and (2) the Employer's guarantee of the payment of principal and interest in conformity with the terms of the notes. The proposed exemption, if granted, would affect the Employer, the participants and beneficiaries of the Plans, and Mr. Mort Mitchner, who will serve as fiduciary for the Plans with respect to such second trust deeds.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before Oct. 23, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. D–2878, D–2879, and D–2880. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department of Labor, telephone (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406 (a) and (b) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Temporary Nature of the Exemption

The proposed exemption is temporary and, if granted, will expire five years after the date of grant.[1] Shoud the applicant wish to continue these transactions beyond the five year period, the applicant may submit another application for an exemption.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. As of January 13, 1982, each of the Plans covered from 100 to 109 participants. 40.3 percent of the total assets of the Plans, as of June 30, 1982, was invested in trust deeds. None of these trust deeds were originated by the Employer. The trustees of the Plans, Brian Chisick, who is also the President of the Employer, and Sarah Chisick, have the general responsibility to make investment decisions for the Plans.

2. The Employer is a mortgage broker, licensed by the California State Department of Real Estate, specializing in the placement of second trust deeds.[2] Acting in its capacity as a loan broker, it brings lenders and borrowers together, reviews the credit worthiness of the borrower, researches the quality of title to the property the borrower proposes to use as collateral for the proposed loan, prepares the documentation appropriate for each loan, arranges for execution and recording of loan documents, and services the loan after recordation. The Employer receives loan initiation fees (Points) as compensation for the services it renders. The Points are borne solely by the borrower and are generally paid out of the loan proceeds. The amount of Points is generally stated as a percentage of the gross amount of the loan. The exact amount of Points charged at any given time is not fixed, but varies according to the then prevailing conditions of a very competitive market in secondary financing.

3. The Employer proposes to have the Plans purchase second trust deeds arranged by the Employer. No second trust deeds would be placed with the Plans which would represent extensions of credit to parties in interest as defined in section 3(14) of the Act. In order not to receive any financial benefit from any second trust deed placed with the Plans,

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[1] In order that the Employer's guarantee of payment of principal and interest on the notes will not be frustrated by the temporary nature of the exemption, exemptive relief will be extended after the five year term of the exemption for such guarantees with respect to second trust deeds placed with the Plans during the term of the exemption.

[2] In California, a trust deed takes the place of and serves the same purpose as a common-law mortgage.

the Employer will contribute to them an amount at least equal to the Points it earns on the trust deeds it places with the Plans.[3] In any particular year the Employer may be required to contribute additional monies to the Plans so as to fund them properly according to their terms. The applicant represents that the amount of Points contributed to the Plans will not reduce the amount of the yearly Employer contributions to each Plan otherwise required by the terms of each Plan.

4. The Employer will guarantee, in writing, the payment of principal and interest in conformity with the terms of each note. The Employer shall continue to make the payments of principal and interest on each loan, according to its terms, if for any reason the borrower should fail to make such payments. The Employer, as indemnitor, may then go against the borrower for the amounts in default on the loan, but the Employer will bear all risk of loss. As of November 30, 1981, the Employer's net worth amounted to $2,747,063.21. As of January 13, 1982, the total principal amount of existing loans placed by the Employer with unrelated third parties and guaranteed by the Employer was approximately $7,500,000. However, the applicant represents that (a) the Employer has temporarily discontinued its practice of guaranteeing loans it places with unrelated third parties, including unrelated pension trusts, (b) the Employer has never been called upon to make payments of either principal or interest on any of the loans it has guaranteed and (c) the fair market value of the properties securing the loans that the Employer has guaranteed exceeds all of the encumbrances against them by at least $20,000,000.

5. The second trust deeds to be placed by the Employer with the Plans will have the following characteristics. The trust deeds will generally be short-term (e.g., three years), interest-only obligations. Financial information pertaining to the borrower (including a credit report), a title report on the property used as security, and a fire and casualty insurance policy are required with respect to each transaction. The security for the loan is in most cases high quality southern California residential property and occasionally commercial property. The property securing the loans will be geographically dispersed within southern California. In connection with each loan, an independent appraisal of the property securing the loan is obtained. At least a 25 percent protective equity is required for each loan (i.e., the amount of the loan together with all prior encumbrances may not exceed 75 percent of the property's appraised value). Each loan purchased by the Plans will earn interest at a rate that is not less than the current rate earned by comparable loans placed by the Employer with third parties. The loan will be serviced at no cost to the Plans by the Employer.

6. Each Plan will not at any time have more than ⅛ of the current value of its total assets invested in trust deeds placed through the Employer and will not at any time have more than 50% of the current value of its total assets invested in trust deeds placed by anyone, includng the Employer and others. In addition, no more than 10 percent of each Plan's assets will be invested in any one loan.

7. Prior to the placement of any loan with the Plans, Mr. Mort Mitchner, a party unrelated to the Plans or the Employer, will determine whether each transaction is a suitable investment for the Plans and that the terms of each transaction are at least as favorable to the Plans as those which the Plans would receive in the same type of transaction with an unrelated party. In addition, he will monitor the loans placed with the Plans to ensure compliance with all the terms and conditions of the exemption. He will perform some of the appraisals mentioned in the preceding paragraph and will obtain others from other appraisers employed by Vista Mortgage Corporation (Vista). Mr. Mitchner will act as fiduciary for the Plans and will have complete authority to accept or reject any particular note secured by deed of trust.

Mr. Mitchner is a real estate appraiser and the Vice President and General Manager of Vista, an unrelated mortgage brokerage company, and has many years of experience in the home loan industry. He was an appraiser for the Employer before starting his own company. However, the applicant represents that (a) Mr. Mitchner is no longer an employee of the Employer and has had no business dealings with the Employer since starting his own company, (b) neither Vista nor any of its principals have any business dealings with the Employer or its principals, (c) there are no loans or extensions of credit between Vista or any of its principals and the Employer or any of its principals, (d) Vista and the Employer do no have any owners, directors, or officers in common, and (e) neither Vista nor the Employer own any interest in each other. The applicant represents that Mr. Mitchner has had many dealings with pension plans in his business as a mortgage broker. In addition, the applicant states that Mr. Mitchner is experienced in the area of trust deed investment analysis for persion plans, is very aware of the special needs of this type of investor, has a basic working knowledge of pension law as it applies to investments in trust deeds, and will have at his disposal attorneys who practice in the field of pension law. Further, the applicant states that Mr. Mitchner has sufficient knowledge as to both the areas of trust deed investment analysis and pension law to enable him to act effectively in his fiduciary capacity, as described above.

8. Mr. Mitchner believes that it is consistent with the best interests of the Plans to invest a large percentage of their assets in notes secured by deeds of trust, providing that they are properly diversified as to the amount of any one loan, the worth of the security, and the credit of the borrower. He agrees with the Employer's view that because of its substantial involvement with the trust deed market, the Employer is in a position to do a much better job of selecting trust deeds in which to invest than would typically be the case. Mr. Mitchner states that he has examined the Plans' trust deed portfolios and has found that they contain only high quality loans, that the investments are diversified over many loans so that the overall risk of loss is quite low, and that the returns to the Plans on these investments are substantial, averaging between 15% and 20% per year.

9. The Employer represents that the contributions to the Plans, including contributions of commissions earned by the Employer on loans placed with the Plans, will not exceed the limitations prescribed by section 415 of the Code.

10. In summary, the applicant represents that the proposed transactions meet the criteria for an exemption provided by section 408(a) of the Act because (a) the proposed transactions will be approved and monitored by an independent fiduciary, (b) the exemption will be a temporary exemption for five years, (c) the Employer will guarantee, in writing, the payment of principal and interest in

[3] The Employer is prohibited under California law (California Business and Professions Code § 10137) from assigning its commission income to a third party who is not a licensed real estate broker or salesman.

conformity with the terms of each note, (d) each Plan's investment in trust deeds, whether placed by the Employer or anyone else, will be limited to 50% of the current value of the Plan's total assets, and (e) each Plan's investment in trust deeds placed by the Employer will be limited to ⅓ of the current value of the Plan's total assets.

Notice to Interested Persons

Within 20 days of the date this notice of proposed exemption is published in the **Federal Register**, the applicant will notify all interested persons of the pendency of this application for exemption. Interested persons include all participants and beneficiaries of the Plans and all employees of the Employer. The notice will contain a copy of the notice published in the **Federal Register** and will inform interested persons of their right to comment and/or request that a hearing be held with respect to the proposed exemption. Notice will be provided to participants of the Plans and employees of the Employer by posting such notice in locations customarily used by the Employer for notices to employees with regard to labor management relations matters at worksites of employees. Notice will be provided to beneficiaries of the Plans by direct mailing to the beneficiary's last known address.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and (b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code shall not apply to the Employer's placement for a period of five years of second trust deeds with the Plans, and the guarantee by the Employer of the payment of principal and interest in conformity with the terms of the notes, based on the terms and conditions set forth above, provided that the terms of each transaction are at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24334 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3124]

Proposed Exemption for Certain Transactions Involving LNM Acceptance Corp. and the Aetna Casualty & Surety Co. Located in New York, N.Y.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt certain transactions involving the sale to and holding by employee benefit plans (the Plans) of notes (the Guaranteed Notes) issued by LNM Aceptance Corporation (LNMAC) and guaranteed by The Aetna Casualty and Surety Company (Aetna), which Guaranteed Notes are collateralized by mortgage pools (Mortgage Pools), when LNMAC, Aetna or the Mortgage Pool sponsor or trustee may be a party in interest with respect to one or more of the Plans. The proposed exemption, if granted, would affect the Plans, LNMAC, Aetna and the Mortgage Pool sponsors and trustees.

DATES: Written comments and requests for a public hearing must be received by the Department on or before October 4, 1982.

EFFECTIVE DATE: The exemption, if granted, will be effective as of January 1, 1975.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3124. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200

Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b) (1) and (2) and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by LNMAC and Aetna, pursuant to section 408(a) of the Act and section 4975 (c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. LNMAC is engaged in the business of purchasing and financing single family residential mortgage pools and issuing Guaranteed Notes in connection therewith. Aetna is the third largest writer of casualty insurance in the United States with assets in excess of $7.5 billion as of December 31, 1980. LNMAC and Aetna have no common officers or directors and neither owns any significant amount of stock in the other (or in any affiliate of the other). LNMAC, which is not itself a mortgage originator, purchases Mortgage Pools which are secured by residential mortgages on single family homes and finances such purchases primarily through the issuance and sale, in private placements, of its Guaranteed Notes. Each Mortgage Pool is purchased from an original lender, typically a large bank or savings and loan association, which underwrites, originates, sells and continues to service the mortgages in the Mortgage Pool. The Mortgage Pools typically have an aggregate value in excess of $100 million.

2. The Guaranteed Notes are unconditionally and irrevocably guaranteed by Aetna as to the timely payment of 100% of principal and interest. As a result of Aetna being given the highest bond rating by both Moody's and Standard & Poor (Aaa and AAA, respectively), the Guaranteed Notes have also been given Moody's and Standard & Poor's highest corporate bond rating. The applicants state that this "corporate debt" feature with the attendant Aetna guaranty offers an attractive alternative to investment in ordinary mortgage pools pursuant to the class exemption for mortgage pools (PTE 81–7), because 100% of principal and interest is guaranteed as opposed to the 1% indemnification against loss provided for in PTE 81–7.

3. The amount of Guaranteed Notes currently outstanding is approximately $200 million. The amount held by the Plans is approximately $100 million. The applicant represents that the total value of Guaranteed Notes purchased by a Plan with assets with regard to which LNMAC, Aetna or the Mortgage Pool trustee or sponsor is a fiduciary, will not exceed 25% of the amount of the issue, and furthermore, at least 50% of the aggregate amount of such Guaranteed Notes will be acquired by persons independent of LNMAC, Aetna, the Mortgage Pool trustee or sponsor. The applicants state that they have not knowingly entered into any prohibited transactions in connection with the Guaranteed Notes; however, because of the number of Plans and potential parties in interest involved, the applicants request a retroactive exemption effective January 1, 1975 for the transactions described herein.

4. The maturity of the Guaranteed Notes ranges from 8 to 28 years but the Guaranteed Notes are subject to call if the principal amount of the underlying Mortgage Pool falls below 10 percent of the original aggregate principal amount. The interest rate of the Guaranteed Notes is based on the underlying Mortgage Pool yield and the currently prevailing market interest rates. All of the Guaranteed Notes are sold pursuant to private placements. The appropriate fiduciaries of investing Plans are supplied, prior to investment, with a placement memorandum outlining the subject issue's investment features. In addition, the Plan's fiduciaries receive drafts of the principal financial documents, including the Mortgage Pool servicing agreement. If LNMAC, Aetna or the Mortgage Pool sponsor or trustee is a fiduciary with regard to Plan assets that are to be invested in the Guaranteed Notes, an independent fiduciary will act on the Plan's behalf with regard to all transactions relating to the Plan's investment in the Guaranteed Notes.

5. Aetna's fee for guaranteeing each issue of Guaranteed Notes is negotiated at arm's length by LNMAC and Aetna. Such negotiations reflect the parties' perceptions of market forces within the insurance industry, as well as their judgment in applying mortgage industry default experience to the particular Mortgage Pools underlying each new series. The premium thus agreed upon has typically been in the range of 1 to 1½% of the aggregate principal amount of the Guaranteed Notes.

6. Aetna's fee as well as other expenses incurred in the issuance of the Guaranteed Notes (including legal fees and rating agency fees) is paid directly by LNMAC out of the fee paid to LNMAC by the Mortgage Pool originator. LNMAC's compensation, which also comes from this fee, is a placement fee ranging up to 1% of the aggregate principal balance of the Mortgage Pools underlying the Guaranteed Notes. This placement fee is the only compensation that LNMAC or any of its affiliates receives in connection with the Guaranteed Notes program. The applicants represent that the sum of all payments made to and retained by LNMAC, Aetna and the Mortgage Pool sponsor in connection with Guaranteed Notes will represent not more than reasonable compensation for the services rendered.

7. The applicant represents that the transactions described herein satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The Guaranteed Notes are unconditionally guaranteed by Aetna as to the timely payment of 100% of principal and interest;

(b) The Guaranteed Notes have the highest bond rating given by Moody's and Standard and Poor;

(c) The total value of Guaranteed Notes purchased by a Plan with assets with regard to which LNMAC, Aetna or the Mortgage Pool trustee or sponsor is a fidiciary, will not exceed 25% of the amount of the issue, and furthermore, at least 50% of the aggregate amount of such Guaranteed Notes will be acquired by persons independent of LNMAC, Aetna, the Mortgage Pool trustee or sponsor;

(d) Prior to investment, Plan fiduciaries are supplied with the placement memorandum and the principal financial documents; and

(e) The applicant emphasizes that the exemption requested herein is substantially similar to PTE 81–7. The principal difference is that the Guaranteed Notes are essentially a debt

obligation of LNMAC and are 100% guaranteed by Aetna.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the following exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

I. Transactions

A. Effective January 1, 1975, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code shall not apply to the following transactions involving the Guaranteed Notes and Mortgage Pools acquired by LNMAC with the proceeds thereof:

(1) The direct or indirect sale, exchange or transfer of Guaranteed Notes in the initial issuance thereof between LNMAC and a Plan when LNMAC, Aetna or the sponsor of any trustee of the related Mortgage Pool is a party in interest with respect to such Plan, provided that the Plan pays no more than fair market value for such Guaranteed Notes;

(2) The continued holding of Guaranteed Notes acquired pursuant to subparagraph (1), above, by a Plan.

B. Effective January 1, 1975, the restrictions of sections 406(a), 406(b) (1) and (2) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the following transactions involving the Guaranteed Notes and related Mortgage Pools:

(1) The direct or indirect sale, exchange or transfer of Guaranteed Notes in the initial issuance thereof between LNMAC and a Plan when LNMAC, Aetna or the sponsor or any trustee of the related Mortgage Pool is a fiduciary with respect to the Plan assets invested in such Guaranteed Notes, provided:

(a) Such sale, exchange or transfer is expressly approved by a fiduciary independent of LNMAC, Aetna or the pool sponsor or trustee who has authority to manage and control those Plan assets being invested in such Guaranteed Notes;

(b) The Plan pays no more for the Guaranteed Notes than would be paid in an arm's length transaction with an unrelated party;

(c) Other than LNMAC's placement fee, no investment management, advisory or underwriting fee or sales commission or similar compensation is paid to LNMAC with regard to such sale, exchange or transfer or to such Mortgage Pool sponsor with regard to its sale to LNMAC of the related Mortgage Pool;

(d) The total value of Guaranteed Notes purchased by a Plan does not exceed 25 percent of the amount of the issue; and

(e) At least 50 percent of the aggregate amount of the issue is acquired by persons independent of LNMAC, Aetna or the sponsor or any trustee of the related Mortgage Pool.

C. Effective January 1, 1975, the restrictions of section 406(b) (1) and (2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to transactions in connection with the servicing and operation of any Mortgage Pool acquired by LNMAC with the proceeds of its Guaranteed Notes, nor to transactions in connecton with the guaranty of such Notes delivered by Aetna, provided that: (1) such transactions are carried out in accordance with the terms of a binding servicing agreement or, in the case of the guaranty, other appropriate documentation; and (2) such servicing agreement or other documentation, as the case may be, is made available to investors before they purchase the related Guaranteed Notes.

D. Effective January 1, 1975, the restrictions of sections 406(a) and 407 of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any transactions to which such restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest (including a fiduciary) with respect to a Plan by virtue of providing services to the Plan (or who has a relationship to such service provider described in section 3(14 (F), (G), (H), or (I) of the Act), solely because of the ownership by such plan of any of LNMAC's Guaranteed Notes.

II. General Conditions

A. The relief provided under section I, above, is available only whenever the following conditions are met:

(1) The Aetna Guaranty extends to the timely payment of 100 percent of principal of, and interest on, the Guaranteed Notes; and

(2) The sum of all payments made to and retained by LNMAC, Aetna or to the sponsor of the related Mortgage Pool, in connection with such Mortgage Pool and the issuance of the related Guaranteed Notes, and all funds inuring to the benefit of such Mortgage Pool

sponsor as a result of the administration of such Mortgage Pool, must represent not more than adequate consideration for selling the Guaranteed Notes or the mortgage loans (or LNMAC's participation therein) or, as the case may be, reasonable compensation for services provided by such pool sponsor to the pool.

III. Definitions

A. For the purposes of this exemption the terms "sponsor" or "pool sponsor" mean:

(1) The entity which organized, and either continues to service or supervises the provision of services to, a Mortgage Pool comprised of mortgage loans either made or purchased by such entity and interests in which shall be acquired (either directly, or by acquisition of an obligation secured thereby) by LNMAC; and

(2) Any successor thereto.

B. For the purposes of this exemption, the term "Mortgage Pool" means an investment pool the corpus of which

(1) Is held in trust or otherwise is distinctly indentifiable; and

(2) Consists solely of

(a) Interest-bearing obligations secured by first mortgages or deeds of trust on single-family, residential property;

(b) Property which had secured such obligations and which has been acquired by foreclosure; and

(c) Undistributed cash.

C. For the purposes of this exemption, the term "affiliate" of another person means:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

For purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

D. For the purposes of this exemption, the term "single-family, residential property" means non-farm property comprising one to four dwelling units, and also includes condominiums.

E. For the purposes of clause (e) of subparagraph I (B)(1) of this exemption, a person will be "independent of LNMAC, Aetna or the Mortgage Pool sponsor or any trustee" only if:

(1) Such person is not an affiliate (as defined in paragraph III(C) of this exemption) of LNMAC, Aetna or such Mortgage Pool sponsor or trustee; and

(2) Neither LNMAC, Aetna or such Mortgage Pool sponsor or trustee, nor any affiliate thereof, is a fiduciary who has investment management authority or renders investment advice with respect to any of the assets of such person.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions that are the subject of the exemption.

Signed at Washington, D.C., this 30th day of August, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24329 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-141; Exemption Application No. D-3400]

Exemption From the Prohibitions for Certain Transactions Involving the Clint N. Paschal, D.M.D., P.C. Profit Sharing Plan Located in Columbus, Georgia

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the cash sale by the Clint N. Paschal, D.M.D., P.C. Profit Sharing Plan (the Plan) of certain unimproved real property (the Real Property) to Dr. Clint N. Paschal (Dr. Paschal) a disqualified person with respect to the Plan. Since Dr. Paschal is the sole shareholder of Dr. Clint N. Paschal, D.M.D., P.C. (the Employer) as well as the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Internal Revenue Code of 1954 (the Code).

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 6, 1982, notice was published in the **Federal Register** (47 FR 29414) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed on behalf of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; nor does the fact the transacton is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of

whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participant and beneficiaries; and

(c) It is protective of the rights of the participant and beneficiaries of the Plan.

Accordingly, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale of the Real Property for $50,000 by the Plan to Dr. Paschal, provided the amount paid is not less than the fair market value on the date the sale is consummated.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of August 1982.

Alan D. Lebowitz.

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–24332 Filed 9–2–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–3574]

Proposed Exemption for Certain Transactions Involving the J. D. Posillico, Inc. Profit Sharing Plan Located in Farmingdale, New York

AGENCY: Office of Pension and Welfare Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt (1) the proposed loan of funds (the Loan) by the J. D. Posillico, Inc. Profit Sharing Plan (the Plan) to Fairway Leasing Company (Fairway), a party in interest with respect to the Plan; and (2) the guarantee of the obligations of Fairway under the Loan by the four partners (the Partners) of Fairway. The proposed exemption, if granted, would affect Fairway, the Plan and its participants and beneficiaries, and any other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before Oct. 13, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–3574. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of Fairway, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined contribution plan with 69 participants. As of July 31, 1981, the Plan had total assets of $3,136,282. Messrs. Mario A. Posillico, Joseph D. Posillico, Jr., and Stephen T. Bongiorno are the trustees of the Plan (the Trustees) and maintain investment discretion over the assets of the Plan. The Trustees are officers and/or shareholders of J. D. Posillico, Inc. (the Employer), the sponsor of the Plan.

2. The Employer is a corporation engaged in the heavy construction business and acts as a general contractor. Fairway is a New York general partnership consisting of the Partners, Messrs. Mario Posillico, Joseph Posillico, Dominic J. Posillico, and Charles A. Gargano. These individuals own collectively 91.49 percent of the outstanding stock of the Employer.

3. The applicant is requesting an exemption to allow the Plan to loan $300,000 to Fairway. The Loan will represent less than 10 percent of the Plan's assets. The Loan proceeds will be used, to the extent necessary, to repay certain indebtedness owed by Fairway to Citibank, N.A. The excess of the proceeds, if any, will be used for working capital.

4. The Loan will accrue interest on its outstanding principal balance at the rate of 0.5 percent above the prime rate of interest charged by the Long Island Trust Company (the Bank). The Loan will provide for monthly payments of interest on the Loan's outstanding balance and monthly adjustments in the interest rate to reflect any changes in the prime rate. In no event will the interest rate be reduced below 14 percent per annum. The principal amount of the Loan will be repaid in 35 equal monthly installments of $8,333.33 and a final payment of $8,333.45. Payments will commence on the first day of the second month subsequent to the date of the making of the loan.

5. The Loan will be secured by a duly perfected first security interest in Mack dump trucks (the Collateral) owned by Fairway. Mr. Vincent Evangelista of Mineola Mack Distributors, Inc. located in Hicksville, New York, appraised the Collateral and determined that, as of March 24, 1982, it had a total value of $635,000. The Collateral is insured at no expense to the Plan and the Plan will be named insured under the insurance policies. If the value of the Collateral falls below 150 percent of the outstanding balance of the Loan, additional collateral will be provided.

6. The Bank will serve as the fiduciary for the Plan with regard to the Loan. The Bank does not maintain any relationship to the Employer or Fairway other than serving as the custodian for the Plan's assets. The Bank has examined the terms of the Loan and has determined that it is appropriate, suitable, and in the

best interests of the Plan. The bank will make the same determination immediately prior to the consummation of the transaction. The Bank will have final authority and control over the Loan and will monitor and enforce the performance of Fairway's obligations under the Loan. The Bank's duties will include, but not be limited to, the monthly adjustment of the Loan's interest rate, the determination of the need for the provision of additional collateral to ensure that the total value of the collateral securing the Loan remains at least 150 percent of the outstanding balance of the Loan, determining whether adequate insurance on the Collateral is being maintained to protect against a loss by fire or other damages, and the execution and filing of a valid security agreement and financing statement in favor of the Plan.

7. Additionally, the Partners will give a guaranty for the full amount of any deficiency in the repayment of the loan and other expenses unpaid as a result of any deficiency by Fairway. The net worth of the Partners is estimated to be at least 6 times the amount of the Loan.

8. In summary, the applicant represents that the proposed Loan will satisfy the criteria of section 408(a) of the Act because (a) the Loan represents less than 10 percent of the Plan's assets; (b) the Loan will be secured by a perfected first security interest in insured collateral which has been appraised as having a value in excess of 200 percent of the amount of Loan; (c) the Bank, an independent party, has examined the transaction and has determined that the loan is appropriate, suitable, and in the best interests of the Plan; and (d) the Bank will monitor the Loan and enforce the obligations of Fairway under the Loan.

Notice to Interested Persons

Within 10 days after this notice is published in the Federal Register notice will be provided to Plan participants and beneficiaries by prominently posting at the Employer's place of business or by mailing or hand delivery. Such notice shall include a copy of the notice of pendency as published in the Federal Register and shall inform interested persons of their right to comment on and request a hearing with regard to the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) the Loan, as described herein, by the Plan to Fairway; and (2) the guarantee by the Partners of Fairway's obligations under the Loan, provided that the terms and conditions of the transactions are not less favorable to the Plan than those obtainable in similar transactions with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24324 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3325]

Proposed Exemption for Certain Transactions Involving Starr-Wood-Chapman-Ahmad, P.C. Retirement Trust, Located in Portland, Oregon

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) The proposed assignment to the Starr-Wood-Chapman-Ahmad, P.C. Retirement Trust (the Plan) by Dr. Albert Starr, a Plan trustee, of Dr. Starr's interest in a real estate sales contract (the Contract); and (2) the agreement by Dr. Starr to indemnify the Plan in the event of any loss suffered as a result of the default of the obligor under the Contract. The proposed exemption, if granted, would affect Dr. Starr, the Plan and its participants and beneficiaries

and other parties involved in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before Oct. 18, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–3325. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of the 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined contribution plan with eight participants and approximately $3 million in net Plan assets as of March 17, 1982. Dr. Starr is one of three Plan trustees (the Trustees) and is the president of Starr-Wood-Chapman-Ahmad, P.C. (the Employer), the Plan sponsor. The other two Trustees are James A. Wood, the vice president and secretary of the Employer and Richard A. Chapman, the assistant secretary of the Employer.

2. On January 13, 1982, Dr. Starr executed the Contract with Adams Street Investors (Adams), an Oregon limited partnership, pursuant to which Dr. Starr sold Adams two apartment complexes (the Properties) located in McMinnville, Oregon, consisting of six and 12 units respectively. There was no pre-existing relationship between any of Adams' partners and the Plan, the Trustees or the Employer.

3. The Contract purchase price was $426,000 and is broken down as follows: Adams paid Dr. Starr $115,000 in cash, as of March 31, 1982; Adams assumed two mortgages (mortgagors and mortgagees are unrelated to the Trustees or the Employer) with a total principal balance of $238,517 as of January 13, 1982; and the remaining Contract balance of $72,483 is due on February 10, 1987 with interest payable in monthly payments calculated at 12% per annum. The applicant emphasizes that the terms and conditions of the Contract were negotiated at arm's length by Dr. Starr and Adams. The applicant further states that the Properties produced income of $47,500 in 1981, which substantially exceeded the amount of principal and interest payable under the Contract. The applicant projects that the income stream from the Properties will continue to service the debt over the life of the Contract.

4. Dr. Starr proposes to assign to the Plan his right to receive the Contract balance for a cash price of $51,200 minus the amount of any principal payments received by Dr. Starr prior to the transfer. This amount represents 1.7% of Plan assets and a discount of 29% from the above-mentioned Contract balance of $72,483 which would yield to the Plan a net return of 25% per annum for the five-year term of the Contract. The Contract stipulates that Dr. Starr must obtain the written consent of Adams prior to an assignment but further provides that such consent shall not be reasonably withheld. The applicant represents that such consent will be obtained prior to Dr. Starr's assignment to the Plan. Furthermore, Dr. Starr has agreed to indemnify the Plan in the event of any loss suffered as a result of default by Adams under the Contract. Dr. Starr's net worth is greatly in excess of the purchase price to be paid by the Plan.

5. Mr. Williams Wagner, the Plan's business manager, determined the discount by comparing the Contract with similar land sale contracts. Mr. Patrick Scanlon, a senior vice president of Northern Properties, Inc., an independent commercial real estate firm, has stated in a letter dated March 8, 1982, that the $426,000 Contract purchase price accurately reflects the Properties' fair market value. Mr. Scanlon has stated that in the regular course of his business, he and Norther Properties, Inc. advise employee benefit plans concerning investments in real estate. He further stated that he has consulted with an attorney concerning his rights, duties and liabilities as a fiduciary under Part 4 of Title I of the Act. Mr. Scanlon further stated after reviewing the details of the Contract and the terms of its proposed assignment to the Plan, that the proposed assignment would be an excellent and secure investment for the Plan. He also noted that the Properties are highly marketable and that with a land sale contract, the seller is entitled to foreclose on the property in the event of a default by the purchaser and retain all payments previously made. The assignment from Dr. Starr to the Plan will be recorded in the appropriate public record to perfect the Plan's security interest. The law firm of Tonkon, Torp, Galen, Marmaduke & Booth (Tonkon, Torp) will monitor Adams' payments under the Contract and will also be responsible for the enforcement of Dr. Starr's indemnification agreement. Tonkon, Torp provides occassional legal services to the Employer of a non-retainer basis, which services have averaged less than 2% of Tonkon, Torp's annual billings.

6. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) An independent realtor, Mr. Scanlon, has determined that the assignment of the Contract balance would be an excellent and secure investment for the Plan;

(b) The terms of the Contract were negotiated at arm's length;

(c) The amount of the discount was determined by the Plan's business manager, Mr. Wagner, by comparing recent sales of similar land sale contracts; and

(d) Dr. Starr has agreed to indemnify the Plan in the event of default by Adams under the Contract;

(e) the transactions would involve

only 1.7% of Plan assets and the net return would be 25% per annum; and

(f) Adams' payments under the Contract and Dr. Starr's indemnification agreement will be monitored and enforced by Tonkon, Corp.

Notice to Interested Persons

Notice of the proposed exemption will be given to Plan participants and beneficiaries within 15 days of its publication in the **Federal Register**. The notice will include a copy of the proposed exemption and will inform each recipient of his right to comment on or request a hearing regarding the proposed exemption. The notice will be hand-delivered to current employees and mailed to any other participant or beneficiary who has a vested interest in the Plan.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(f) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) the assignment by Dr. Starr to the Plan of his interest in the Contract for $51,200, provided that this price is not less than the fair market value of Dr. Starr's interest in the Contract; and (2) Dr. Starr's agreement to indemnify the Plan in the event of any loss suffered as a result of default by Adams under the Contract.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of August, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24330 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibition Transaction Exemption 82-137; Exemption Application No. D-3115]

Exemption From the Prohibitions for Certain Transactions Involving Stout-Wall Research, Inc., Profit Sharing Plan Located in Loveland, Colorado

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts for a period of seven years the proposed loans of money (the Loans) by the Stout-Wall Research, Inc. Profit Sharing Plan (the Plan) to Stout-Wall Research, Inc. (the Employer) and the guarantee of the obligation of the Employer in such Loans by Messrs. Roy C. Stout, Jr. (Stout) and Robert Wall (Wall), parties in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 6, 1982, notice was published in the **Federal Register** (47 FR 29406) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for transactions described in an application filed on behalf of the Plan by the trustee of the Plan, Affiliated First National Bank of Loveland, Colorado. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to interested persons in compliance with the provisions in the notice of proposed exemption. No public

comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply for a seven year period to the Loans of money by the Plan to the Employer as described in the notice of pendency and to the guarantees by Stout and Wall of the obligation of the Employer in such Loans, provided that the terms of the Loans are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24340 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3589]

Proposed Exemption for Certain Transactions Involving the Janney Montgomery Scott, Inc., Employees Stock Ownership Plan Located in Philadelphia, Pennsylvania

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code. The proposed exemption would exempt, effective July 15, 1982, the sale by the Janney Montgomery Scott Inc. Employees Stock Ownership Plan (the Plan) of common stock of Janney Montgomery Scott Inc. (Janney) to Penn Mutual Equity Services, Inc. (Penn Equity). Pursuant to the agreement of sale, Penn Equity is obligated to make additional future payments to shareholders of Janney, including the Plan, upon the occurrence of certain specified events. The proposed exemption, if granted, would affect the Plan, Janney, Penn Equity and any other person participating in the transactions.

EFFECTIVE DATE: If granted, the exemption will be effective July 15, 1982.

DATE: Written comments and requests for a public hearing must be received by the Department on or before October 18, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–3589. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of Penn Equity and the Penn Mutual Life Insurance Company (Penn Mutual), the parent of Penn Equity, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file

with the Department for the complete representations of the applicant.

1. The Plan is an individual account stock bonus plan with 702 participants. As of April, 1982, the Plan's assets consisted entirely of 49,527 shares of Class B stock of Janney (the Stock), which represented approximately 54% of all the outstanding shares of Janney stock. The Plan is administered by an administrative committee and three trustees Messrs. Norman T. Wilde, Jr. (Mr. Wilde), W. Gresham O'Malley, III and Mr. James A. McCrea (the Trustees). The Trustees are responsible for investment decisions regarding the Plan. The Trustees are officers of Janney and own Janney stock individually. Mr. Wilde is the president and a director of Janney.

2. Janney is a Delaware corporation engaged primarily in the stock brokerage business. Janney's authorized capital stock consisted solely of 340,000 shares of common stock divided into 190,000 shares of Class A voting stock (Class A stock) and 150,000 shares of Class B non-voting stock (Class B stock). There were 37,923 and 53,252 shares of Class A and Class B stock, respectively, issued and outstanding, of which 2,341 and 970 shares of Class A and Class B stock, respectively, were held as treasury stock. There was no generally recognized market for either Class A or Class B stock. The rights of the shareholders with respect to each class of stock, with the exception that Class A stock was voting stock, were identical.

3. The Plan did not hold any Class A stock. The shares of Class B stock which were not held by the Plan were owned by 98 shareholders who also owned Class A stock. Sixty-six shareholders are not officers [1] or directors of Janney.

4. On July 15, 1982, a Stock Purchase Agreement (the Agreement) between Penn Mutual, Penn Equity, Janney and all of the stockholders of Janney, was executed whereby Penn Equity would purchase from the stockholders of Janney all of the issued and outstanding capital stock of Janney. Penn Equity is a Pennsylvania corporation and a second tier wholly-owned subsidiary of Penn Mutual, a mutual life insurance company.

5.The aggregate purchase price paid by Penn Equity (the Purchase Price) consists of (a) a fixed payment component of $58,333,000 of which $2,916,650 will be held, together with any interest earned thereon, in an escrow account pending determination of Janney's net book value as of July 30, 1982 (if the net book value is below $20,450,000, all, or a portion, of the escrowed funds will be returned to Penn Equity); and (b) a contingent payment component. The contingent payment component consists of (1) a payment of an additional $11,677,000, together with interest thereon at 10% per annum, compounded annually, payable following the expiration of the two year period after the date of the closing of the sale, provided that Janney's accumulated net income, before taxes for that two year period, is not less than $1,000,000; and (2) an additional $1,000,000 payable with respect to each of the next five calendar years, commencing with 1983, in which Janney's gross profits increase by at least 17%, compounded annually, over a certain gross profits base amount. In the event the gross profits target is not satisfied in any one year, it may be satisfied in a subsequent year on a cumulative basis.

6. The Agreement provides, inter alia, that if Penn Equity and the designated stockholders representative (Mr. Wilde) disagree concerning the satisfaction of the profit targets for any given year, or the amount of Janney's net book value as of July 30, 1982, and the parties are unable to resolve their dispute within 10 days, they will mutually select independent public accountants to determine whether or not the conditions have been satisfied. The determination by such accountants will be final and binding upon the parties. The Plan will share pro rata with all of the shareholders of Janney in the receipt of the contingent payments, and, as each of the other shareholders of Janney, has received cash for the value of its shares at closing. Each shareholder of Class A stock and Class B stock received the same price per share. No notes or other evidence of indebtedness have been issued obligating Penn Equity to make future payments to shareholders of Janney, as such obligations exist solely in the Agreement.

7. The Agreement also provides that all shareholders of Janney will indemnify and hold harmless Penn Mutual and Penn Equity at all times against (1) any and all damages or deficiencies resulting from any misrepresentation, breach of warranty, or nonfulfillment of any agreement on the part of the shareholders, of Janney, made in the Agreement, or from any misrepresentation in or omission from any certificate or other instrument furnished, or to be furnished to Penn Mutual or Penn Equity under the Agreement; and (2) any and all actions, suits, proceedings or other expenses incident to the enforcement of the terms of the Agreement. In no event will indemnification be required unless aggregate damages exceed $100,000. The withholding of the contingent components of the Purchase Price not yet paid to the shareholders will constitute the exclusive source of satisfaction of any claim for indemnification made by Penn Central or Penn Equity. Also, the Agreement provides for forfeitures of any contingent payments otherwise due a January shareholder if a shareholder violates certain non-competition provision of the Agreement. This forfeiture provisions of the Agreement does not apply to shares held by the Plan.

8. The Agreement also provides that Penn Mutual and Penn Equity will enter into employment agreements with eight officers of Janney. Two of these individuals are Messrs. Wilde and O'Malley, two of the Trustees. The employment agreements contain certain non-competition provisions, and provide, inter alia, that the individuals bound by it will be employed at a base compensation level (which does not exceed their compensation for the year 1981), and will be entitled to participate in any incentive compensation plans maintained by Janney after the closing of the Agreement.

9. The closing of the Agreement occurred on July 30, 1982. Based upon a net book value of Janney of $20,450,000, the Purchase Price for the stock of Janney represents an amount equal to 3.38 times Janney's net book value. The applicant represents that Penn Central, Penn Equity and their affiliates are unrelated to Janney and the shareholders of Janney, and the price paid for the Stock is a result of arm's-length negotiation between Penn Equity and Janney shareholders.

10. The Plan remained in existence after the closing. It is expected that an amended and restated Plan agreement will be adopted which will provide that Plan participants will direct the investment of their individual accounts in the Plan.

11. The applicant seeks an exemption for the Plan's decision to accept Penn Equity's offer to purchase the Stock, which includes the contingent future payments and other provisions of the Agreement, such as the indemnification provision. Such transactions may constitute certain prohibited transactions as described in the Act.

12. The Fidelity Bank (the Bank), has been appointed to serve as the fiduciary for the Plan with regard to the sale of the Stock by the Plan to Penn Equity.

[1] The applicant defines an officer as being an individual having a position of Senior Vice President or above.

The Bank is a full-service commercial bank and trust company incorporated in Pennsylvania, and is the principal subsidiary of Fidelcor, Inc. (Fidelcor), a bank holding company. The Bank was, as of December 31, 1981, ranked 58th by deposits in the United States, and 4th in the metropolitan Philadelphia area. As of December 31, 1981, the Bank, in its capacity as trustee, had custody of employee benefit plan assets totalling over $1,178,000,000 of which the Bank had discretionary management responsibility for funds totalling over $672,000,000.

13. The Bank is independent of Janney, Penn Mutual and Penn Equity. The average balances of deposits of Janney, Penn Mutual and its affiliates, in the Bank represent, with respect to each party, no more than 0.113% of the total deposits of the Bank. The Bank has no loans outstanding to Penn Mutual and its affiliates or to Janney. The lines of credit existing between Janney, Penn Mutual and its affiliates, and the Bank, if drawn, with respect to each party, would represent no more than 0.527% of the total loans of the Bank. Penn Mutual or its affiliates have held interest bearing notes or commercial paper of Fidelcor representing 2.2% of the total short-term borrowings of Fidelcor. The only common director or trustee among the parties is Mr. Martin Myerson, President Emeritus of the University of Pennsylvania, who presently is an outside trustee of Penn Mutual, and an outside director of Fidelcor and the Bank. The applicant represents that Mr. Myerson had no role in the Bank's determinations with regard to the sale of the Stock by the Plan. The Bank is also the trustee of a profit sharing plan sponsored by Janney.

14. The Bank reviewed the proposed sale of the Stock by the Plan prior to closing, and approved the sale as being in the best interests of the participants and beneficiaries of the Plan. The Bank determined that the sale of the Stock was appropriate for the Plan. The Bank recognizes that it is serving as the fiduciary for the Plan with regard to the sale. In rendering its determination the Bank reviewed, inter alia, certain of Janney's financial statements, certain additional internal information provided by the management of Janney, Janney's operations and future business prospects, the trust agreement of the Plan, certain published information on the brokerage industry, other applicable financial studies and analyses, and performed such other investigations as it deemed necessary. The Bank compared the proposed financial terms of the sale of the Janney stock with the financial terms of certain other sales of stock. The Bank reviewed the Agreement and specifically considered, among other matters, (a) the escrowed fixed component of the Purchase Price; (b) the two contingent payment components of the Purchase Price; (c) the employment agreements entered into; and (d) the Purchase Price of the Janney stock. The Bank will monitor the transactions for compliance under the Agreement on behalf of the Plan and will take appropriate action to protect the Plan's interest.

15. In summary, the applicant represents that the transactions satisfy the criteria of section 408(a) of the Act because (a) the sale of the Janney stock, including the Stock held by the Plan, was negotiated on an arm's-length basis between unrelated parties; (b) the Plan received the same consideration for the Stock as all other shareholders, including officers of Janney, received for selling their stock; (c) the Bank, as Plan fiduciary and experienced in the management of employee benefit plan assets, reviewed the transactions and determined, prior to closing, that the transactions are appropriate and in the best interests of the Plan; and (d) the bank will monitor the transactions for compliance under the Agreement on behalf of the Plan and will take appropriate action to protect the Plan's interests.

Notice to Interested Persons

Within 15 days after its publication in the **Federal Register** each Plan participant and beneficiary whose benefits are in pay status will receive notice by first class mail. Notice will also be posted on bulletin boards and in other locations of Janney customarily used to provide employee notices. Notice will include a copy of the notice of proposed exemption as published in the **Federal Register** and will inform interested persons of their right to comment on and/or request a hearing with regard to the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption maybe granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Deprtment is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply

to (1) the sale of the Stock by the Plan to Penn Equity for the Purchase Price, as described herein, and (2) other transactions, as described in the Agreement, executed or to be executed in accordance with the sale, provided the terms of the transactions are no less favorable to the Plan than those available in an arm's length transaction.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 30th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24368 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3376]

Proposed Exemption for Certain Transactions Involving North-Monsen Company Profit Sharing Plan Located in Salt Lake City, Utah

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income security Act of 1974 (the Act) and the internal Revenue Code of 1954 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of a warehouse and office building and concurrent extension of credit by the North-Monsen Company Profit Sharing Plan (the Plan) to Mr. Kent B. Monsen (Mr. Monsen), a trustee of the Plan and therefore a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, Mr. Monsen and other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before October 13, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3376.The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) thorugh (E) of the Code. The proposed exemption was requested in an application filed by legal counsel for the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan, which was established in 1962, is a profit sharing plan with 8 participants and total assets of $301,328 as of March 31, 1982. North-Monsen Company (the Employer) designs and equips systems for storing and conveying products of different businesses.

2. On July 1, 1967, the Plan purchased for $9,000 a warehouse and office building at 252 Orchard Place, Salt Lake City, Utah (the Property). The Property was purchased from an unrelated party. Since the date of purchase, the Plan has leased the Property to the Employer.[1]

3. The area surrounding the Property has become relatively undesirable because it is straddled by major freeways and buildings which are in disrepair. In addition, the sole access to the Property is a dead end alley and the Property has no frontage on any major street. The applicant represents that because of the Property's inaccessibility, the deteriorating neighborhood and the current poor real estate market, it is highly unlikely that the Plan could sell the Property in the market place.

4. The Employer desires to continue using the Property. Despite the poor location of the Property, it is represented to be suitable for the Employer's business.

5. The Plan proposes to sell the Property to Mr. Monsen.[2] Mr. Monsen will pay the Plan $100,000 for the Property, to be paid in 10 equal annual principal installments over a 10 year period, with interest being paid monthly. The loan provides for interest at the rate of 19% per annum for the first year, thereafter, interest will be adjusted annually to the higher of 19% per annum or 2% above the prime interest rate prevailing in Salt Lake City, Utah as determined by the First Security Bank of Utah (the Bank).[3] Mr. Monsen will execute a promissory note to the Plan incorporating the above terms.

6. The extension of credit pursuant to the sale of the Property will be collateralized with 2 trust deeds placed in trust with the Bank.[4] One trust deed gives the Plan a first mortgage interest in the Property. The second trust deed gives the Plan a first mortgage interest in Mr. Monsen's personal residence located at 1925 East 3780 South, Salt Lake City, Utah.

7. The Property was appraised on August 15, 1981 by Mr. Leonard H. Keitz (Mr. Keitz), an unrelated party, of Real Estate Appraisal and Consultation Services, Salt Lake City, Utah, as having a current fair market value of between $85,000 to $93,000. The applicants represent that Mr. Monsen's residence has a value in excess of $150,000. Thus, the loan would represent less than 50 percent of the value of the improved real property that will secure it. The loan will also be secured by Mr. Monsen's

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[1]The applicant represents that the transitional rules of section 414 of the Act are applicable to the leasing of the Property. In this proposed exemption, the Department expresses no opinion as to the applicability of section 414 of the Act.

[2]Mr. Monsen is President and Chairman of the Board of the Employer and owns 64% of its stock. All the remaining stock of the Employer is owned by members of Mr. Monsen's immediate family.

[3]The Bank has been appointed to act as an independent fiduciary with respect to this transaction.

[4]The applicant represents that under Utah law trust deeds are essentially the same as mortgages.

personal assets, which exceed $1,700,000.

8. Mr. Monsen will add any additional collateral that may be required during the life of the loan to assure that the value of the collateral is at all times equal to at least 150 percent of the outstanding balance of the loan. During the life of the loan, Mr. Monsen will keep the collateral adequately insured against fire or other loss at his expense with the insurance payable to the Plan.

9. The Bank has represented that it would loan $200,000 to Mr. Monsen for 10 years. The loan would be repaid in 10 equal annual payments of principal and monthly payments of interest at a rate of 18½ percent. The loan would be secured by first mortgages on the same parcels of improved real property that would serve as collateral for the proposed loan.

10. The trustees of the Plan will appoint the Bank, which is experienced with pension and profit sharing plans, to serve as an independent fiduciary of the proposed transactions. The Bank has no other relationships with Mr. Monsen or the Plan.

The Bank represents that it has made an initial determination that the proposed sale and concurrent extension of credit are appropriate and suitable for the Plan. The Bank will review these determinations immediately prior to consummation of the transactions. The Bank will enforce the terms of the loan agreement between the Plan and Mr. Monsen, including making demand for timely payment, bringing suit or other appropriate process against Mr. Monsen in the event of default, keeping accurate records, and reporting at least annually to the trustees of the Plan on the performance of the parties to the loan, specifically including whether the value of the collateral securing the loan remains equal to at least 150 percent of the outstanding balance of the loan. Also, as stated in 5 above, the Bank is responsible for establishing the interest rate of the loan.

The Bank states that it is familiar with the work and qualifications of Mr. Keitz and that it has reviewed his initial appraisal of October 25, 1975, and his letter opinion dated August 15, 1981. The Bank discussed with Mr. Keitz the basis and techniques upon which he made his appraisal and represents that it feels comfortable in relying upon his value range of $85,000 to $93,000. Further, the Bank is familiar with the general value of homes located in the area of Mr. Monsen's personal residence and believes that $150,000 is an appropriate assessment for his residence.

11. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because

(a) The sales price to be paid the Plan is in excess of that determined by an independent appraiser;

(b) The Plan will be able to dispose of an asset located in a deteriorating neighborhood;

(c) The Plan will receive 19 percent interest or more on its investment, which is greater than the rate proposed by the Bank;

(d) The loan will be administered by an independent fiduciary, the Bank; and

(e) The Bank, as Plan fiduciary, has determined that the proposed transactions are appropriate and suitable for the Plan.

Notice to Interested Persons

Within ten days after the notice of pendency is published in the **Federal Register**, notice will be given to all Plan participants and beneficiaries by mail, personal delivery, or by posting in the Employer's locations where participants work and which are customarily used for notices to employees. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale of the Property and concurrent extension of credit by the Plan to Mr. Monsen, based on the terms and conditions set forth above, provided that the terms of the transactions are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24367 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-136; Exemption Application No. D-2706]

Exemption From the Prohibitions for Certain Transactions Involving the W.A. Tayloe Co., Inc., Profit Sharing Plan Located in Dallas, Texas

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts for a period of seven years, the proposed loans (the Loans) of money by the W.A. Tayloe Co., Inc. Profit Sharing Plan (the Plan) to W.A. Tayloe Co., Inc. (the Employer), the sponsor of the Plan.

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216; (202) 523-8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 29, 1982, notice was published in the Federal Register (47 FR 28180) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of sections 4975(c)(1)(A) through (E) of the Code, for the proposed Loans by the Plan to the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was provided to interested persons in accordance with the requirements set forth in the notice of proposed exemption. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and benficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under sections 406(b)(3) of the Act and sections 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply for a period of seven years to the Loans of money by the Plan to the Employer as described in the notice of proposed exemption, provided that the terms of the Loans are at least as favorable to the Plan as those which the Plan could obtain in an arm's length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24339 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[(Prohibited Transaction Exemption 82-140); Exemption Application Nos. D-3320 and D-3321]

Exemption From the Prohibitions for Certain Transactions Involving the Teamsters Joint Council No. 83 of Virginia Health and Welfare Fund and the Teamsters Joint Council No. 83 of Virginia Pension Fund Located in Richmond, Virginia

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would permit the lease of office space by the Teamsters Joint Council No. 83 of Virginia Health and Welfare Fund and the Teamsters Joint Council No. 83 of Virgina Pension Fund (the Funds) to On-Line Computers, Inc. (On-Line), a service provider to the Funds and therefore a party in interest.

EFFECTIVE DATE: The exemption will be effective March 25, 1982.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 6, 1982, notice was published in the Federal Register (47 FR 29409) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of sections 4975(c)(1) (A) through (D) of the Code, for the transaction described in an application filed by legal counsel for the Funds. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Funds and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Funds.

Accordingly, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the lease of office space by the Funds to On-Line, provided that the terms of the transaction were not less favorable to the Funds than those obtainable in an arm's-length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 30th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24343 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-138; Exemption Application No. D-3167]

Exemption From the Prohibitions for Certain Transactions Involving the Thomasville Orthopedic Clinic, Inc., Pension Plan and Profit-Sharing Plan, Located in Thomasville, Georgia

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) Loans (the Loans) of $40,000 each by the Thomasville Orthopedic Clinic, Inc. Profit Sharing Plan and the Thomasville Orthopedic Clinic Pension Plan (the Plans) to Thomasville Orthopedic Clinic, Inc. (the Employer); and (2) the guarantee of repayment of the Loans by Dr. John Payne (Dr. Payne), the sole shareholder of the Employer.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 25, 1982, notice was published in the Federal Register (47 FR 27646) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed on behalf of the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In

addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to interested persons in compliance with the requirements set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) Loans by each Plan of $40,000 to the Employer, provided the terms and conditions of the Loans are not less favorable to the Plans than those obtainable in an arm's length transaction with an unrelated third party; and (2) the personal guarantee of repayment of the Loans by Dr. Payne.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24341 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-3456 and D-3457]

Proposed Exemption for Certain Transactions Involving V.P.S. Brokerage Co. Profit-Sharing Plan and Trust and the V.P.S. Brokerage Co., Money Purchase Pension Plan and Trust Located in Watsonville, California

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed provision of a revolving line of credit to the V.P.S. Brokerage Co. Profit Sharing Plan and Trust (Profit Sharing Plan) and the V.P.S. Brokerage Co. Money Purchase Pension Plan and Trust (Money Purchase Plan, collectively, the Plans) by Wells Fargo Bank, National Association (the Bank), a party in interest to the Plans. The proposed exemption, if granted, would affect the Bank and the fiduciaries, participants and beneficiaries of the Plans.

DATE: Written comments must be received by the Department on or before October 18, 1982.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. D-3456 and D-3457. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of two applications for exemption from the restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in applications filed by the Bank, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The applications contain representations with regard to the proposed exemption which are

summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. Each of the Plans is a defined contribution plan with 14 participants. As of May 31, 1981, the Profit Sharing Plan had assets of approximately $1.37 million and the Money Purchase Plan has assets of approximately $385,000. The contributing employers to the Plans are V.P.S. Brokerage Co. (V.P.S.) and its affiliate, Inn Foods, Inc. (Inn Foods). The individuals who are responsible for the investment of the Plans' assets are the Plans' trustees (Trustees), Jack Randle, president of V.P.S. and secretary of Inn Foods, Fred Haas, secretary of V.P.S. and president of Inn Foods, and Kenneth D. Gray, controller and assistant secretary of V.P.S. and vice president of Inn Foods. The Trustees are independent of the Bank.

2. The Bank serves as the depositary of certain cash assets of the Plans and has not discretion regarding the management or disposition of the Plans' assets. The Bank proposes to enter into a commercial financing arrangement with the Plans, whereby the Bank would provide the Plans with a collective revolving line of credit up to a maximum of $250,000, provided that no more than 25% of either Plan's assets would be utilized for the line of credit.

3. The Trustees and the Bank represent that the terms of the proposed line of credit were negotiated at arm's length and are more favorable to the Plans than terms which the Bank would generally offer to customers not having a pre-existing relationship. For instance, the interest rate for the line of credit would be a floating rate of ¼% to 1% above the Bank's prime rate whereas the Bank's normal commercial lending rate is 2% or more above the prime rate. The Bank has not made it a condition to the granting of the line of credit that the Plans continue their accounts with the Bank. The applicant states that the remaining terms and conditions are in accordance with normal commercial loan practice.

4. The Trustees state that the proposed line of credit would allow the Plans the option of financing new investments and meeting administrative expenses without liquidating current investments. More specifically, the line of credit would facilitate the Plan's ability to purchase discounted trust deed notes (Notes), a significant aspect of the Plans' investment program. Occasionally the opportunity to acquire an attractively discounted Note arises at a time when the Plans do not have sufficient cash or cash equivalent assets to purchase the Note. The Trustees indicate that a Plan would generally acquire a Note with funds borrowed under the line of credit only where the amount could be repaid within 30 to 60 days (but no more than 90 days) with funds obtained from the maturity of a Note. Furthermore, a financed purchase of a Note would be made only after a detailed consideration by the Trustees of the attractiveness of the Note. The average annual net rate of return on all Notes currently held by the Plan is 15.5% and the return for three Notes purchased in 1980 is 25%, 26% and 28% respectively.

5. In summary, the Trustees state that the proposed line of credit would satisfy the statutory criteria of section 408(a) of the Act due to the following:

a. The proposed transaction would be in the best interests of the Plans and their participants and beneficiaries;

b. The terms of the proposed transaction were negotiated at arm's length and are more favorable than the Plans could obtain elsewhere;

c. The Trustees, who are independent of the Bank, would have the exclusive authority to utilize the line of credit on the Plans' behalf;

d. The line of credit would be used by the Plans only in limited circumstances where the benefit to the Plans has been carefully examined by the Trustees;

e. There is no requirement with the Bank as a condition by the Bank that the Plans continue their accounts of the provision of the line of credit; and

f. No more than 25% of each Plan's assets could be utilized for the line of credit.

Notice to Interested Persons

Notice of the proposed exemption will be given to all interested persons including all currently employed participants, beneficiaries and former employees with vested interests within 15 days of the publication of the proposed exemption in the **Federal Register**. The notice will contain a copy of the proposed exemption and will inform each recipient of his or her right to comment on the proposed exemption. The notice will be sent by first class mail to all interested persons.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the applications for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the applications, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the line of credit

provided by the Bank to the Plans as above-described, provided that the terms and conditions of the line of credit are at least as favorable to the Plans as those they could obtain from an unrelated third party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the applications are true and complete, and that the applications accurately describe all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24325 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3441]

Proposed Exemption for Certain Transactions Involving Lawrence-Pearce Urstadt Advisors Located in New York, New York

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would allow collective investment funds (together, the Funds) that are managed by Lawrence-Pearce Urstadt Advisors (Lawrence-Pearce), in which employee benefit plans participate, to engage in certain transactions provided specified conditions are met. The proposed exemption, if granted, would affect participants and beneficiaries of employee benefit plans that participate in the Funds (Participating Plans), employers of employees covered under such plans, the Funds, and other persons engaging in the described transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 13, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3441. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of Lawrence-Pearce, its affiliates, and First Institutional Realty Fund (FIRF), pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Preamble

On July 25, 1980, the Department published a class exemption, Prohibited Transaction Exemption 80-51 (PTE 80-51, 45 FR 49709), which permits collective investment funds that are maintained by banks and in which employee benefit plans participate to engage in certain transactions provided that specified conditions are met. The transactions for which the applicants have requested relief are similar to those which are the subject of PTE 80-51.

The Department stated in PTE 80-51 that a comment had been received to the proposed class exemption requesting that it be amended to apply to collective investment funds that are not maintained by banks. Relief was granted for bank collective investment funds because, among other reasons, such funds are regulated by other governmental agencies and constitute a well-defined class of funds. In the case of collective investment funds that are not maintained by banks, the Department found that the record was insufficient to determine the nature of the funds and the entities managing the funds that would comprise the class covered by such broad relief. As a result, the Department stated that it could not make the required statutory findings for such relief, and that relief for non-bank maintained collective investment funds should be dealt with on an individual rather than a class basis.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. Lawrence-Pearce is an investment adviser registered with the Securities and Exchange Commission (SEC) under the Investment Advisers Act of 1940. It was formed for the purpose of organizing and serving as the investment manager of real estate funds for tax-exempt investors. Lawrence-Pearce is a joint venture owned by Cyrus J. Lawrence Capital Holdings, Inc. (Captial Holdings), and Pearce, Urstadt, Mayer & Greer Advisory Corporation (Advisory Corporation).

Capital Holdings is an affiliate of Cyrus J. Lawrence Incorporated (CJL), a member firm of the New York Stock Exchange and a member or associate member of all other leading national stock exchanges. Organized in 1864 through a predecessor partnership, CJL specializes in providing investment services to both domestic and foreign institutional investors. These services include investment research and analysis, weekly publication and interpretation of economic trends, execution of orders (including block trades), investment management and participation in syndicates underwriting corporate securities. Capital Holdings was formed as a vehicle to perform activities that do not relate directly to CJL's securities research and brokerage services.

Advisory Corporation is a subsidiary of Pearce, Urstadt, Mayer & Greer, Inc. (PUM&G), one of the nation's largest full service real estate companies. PUM&G is a publicly owned company whose shares and debentures are listed on the American Stock Exchange. PUM&G offers a complete range of real estate services including mortgage financing, equity sales, commercial leasing, mortgage servicing, investment management, consulting and property

management from offices located in New York, Houston, Kansas City, New Orleans, Morristown, New Jersey and from affiliate offices in Los Angeles and St. Paul.

2. FIRF is a collective investment fund organized to invest pooled pension assets in equity interests in income-producing commercial real property (as well as personal property connected therewith) and interests in partnerships, joint ventures, or corporations owning such real property for investment. FIRF may also make loans to persons or entities owning investment real property, if such loans are paired with (i) equity ownership in the property (or the right to participate in the revenues of the property or the appreciation in value thereof) or (ii) options to acquire, or to increase, equity positions in the property.

FIRF is applying for and expects to receive a determination from the Internal Revenue Service that it is a qualified group trust under section 401(a) of the Code and is therefore tax-exempt under section 501(a) of the Code. In accordance with Rev. Rul. 81–100, 1981–1 C.B. 326, which sets out the requirements for an exempt group trust, only pension and profit-sharing plans exempt under sections 401(a) and 501(a) of the Code may invest in FIRF. FIRF offers such pension and profit sharing trusts a vehicle for investing in a diversified portfolio of commercial real property. The applicants represent that such investments can provide a greater return than currently obtainable from certain other investments and also can provide the requisite diversification of plan assets. In addition, the applicants represent that subsequent Funds may be established and operated by Lawrence-Pearce or its affiliates in substantially the same manner as FIRF.

Pending long-term investment or distribution, FIRF's trustees will invest and reinvest trust funds in short-term instruments (limited to money market funds having total assets in excess of $100,000,000, certificates of deposit, bankers' acceptances, savings accounts, high-grade commercial paper, United States government obligations and United States government-guaranteed mortgage-backed securities, such as those securities issued by the Government National Mortgage Association).

3. FIRF will offer up to 35 units of beneficial interest to qualified pension and profit-sharing plans. The minimum investment is one unit at $2,000,000. The trustees may increase the maximum number of units from 35 to 50 and may decrease the minimum subscription from one unit ($2,000,000) to one-quarter unit ($500,000). No investing plan may have more than 20 percent of its assets invested in real estate, including its investment in FIRF. Thus, the decision to invest in FIRF will be made by knowledgeable fiduciaries of large employee benefit plans. FIRF will not commence operations (including purchasing any investments) until subscriptions for at least ten units ($20,000,000) have been received and accepted by the trustees (the Activation Date).

4. FIRF will terminate on December 31, 1992, unless Participating Plans owning 75 percent or more of the outstanding units vote to extend the term of the Fund (for periods of up to two years) or vote to voluntarily dissolve it earlier. Participating Plans should consider Fund units only for long-term investment.

To comply with Rev. Rul. 81–100, which sets forth the requirements for a group trust, interests in FIRF are not transferable. Beginning three years after the Activation Date, a Participating Plan may redeem all or any portion of its units (up to 10 percent in value of all outstanding units) by giving written notice to the trustees. The redemption price of a unit being redeemed will be the net book value of the unit as of the end of the quarter in which the notice is received. FIRF may take up to 30 months to pay 90 percent of the redemption price to enable FIRF to pay for the redeemed units without the disruptive effect of an immediate liquidation of long-term investments. The remaining 10 percent will be retained by FIRF along with any interest or income thereon, and will be paid to the redeeming plan when FIRF is dissolved if sufficient funds are available. If other Participating Plans elect to make an additional contribution to FIRF to purchase the number of units owned by a redeeming plan, the redeeming plan may elect to have its units redeemed at any time without being subject to (1) a 30-month payout of the redemption price, (2) the prohibition against redemptions in the first three years, or (3) the prohibition against redeeming units constituting more than 10 percent of the value of all outstanding units. Units will also be redeemed if a Participating Plan loses its tax-exempt status, although the 30-month payout may be required if other Participating Plans are not interested in investing additional amounts.

5. A private placement memorandum (the Private Placement Memorandum) pursuant to which the units are being offered describes completely to potential investors the management of FIRF, its operation and investment objectives, income tax consequences, the compensation to the investment manager of FIRF and the risk associated with investment in FIRF. In addition, within 120 days after the end of FIRF's fiscal year, each investor will receive a balance sheet, profit and loss statement, and statement of change in financial position of FIRF as prepared by the independent certified public accountants. Investors will also receive a statement of source and application of funds and a statement of fees paid to the investment manager. Within 60 days after the end of each quarter (other than the last quarter), the trustees will distribute an unaudited quarterly balance sheet and income statement and, until all funds are fully invested, a statement of all real estate investments made during that quarter. From time to time, the trustees will provide whatever other information is reasonably requested by the investors. Appraisals by independent appraisers will be made each year beginning in 1983. These appraisals will be included in the yearly reports.

6. There are no interlocking directorships involved; that is, none of the individual trustees of FIRF, nor any of the employees, officers, directors, or shareholders of Lawrence-Pearce or their affiliates serve as fiduciaries of the pension funds which will hold interests in FIRF, or as directors or officers of the sponsors of these pension funds.

7. None of the trustees of FIRF nor any of the employees, officers or directors or shareholders of Lawrence-Pearce or its affiliates will own equity interests in FIRF. Management fees, based on a percentage of FIRF's assets, are subject to review by the independent trustees (described below).

The Group Trust Agreement (the Trust Agreement) provides for seven trustees. At least three of the initial trustees will be unaffiliated with the investment manager or its affiliates. Each of these independent trustees will have substantial real estate or investment experience and expertise. The initial independent trustees are E. Virgil Conway, Dr. Raymond L. Saulnier and Anthony E. Vallace. Mr. Conway is currently the Chairman, Chief Executive Officer, and a trustee of the Seaman's Bank for Savings in New York City. Dr. Saulnier served as a member of President Eisenhower's Council of Economic Advisors from 1955 to 1961, and is currently Professor Emeritus of Economics at Barnard College. Mr. Vallace is President of Galbreath-Ruffin Corp., a real estate development firm, and served as Senior Vice-President of Chemical Bank in New York City from 1961 through 1978. In any year in which

the investment manager is affiliated with any of the trustees, the independent trustees will review the advisory fees being charged by the investment manager. If the independent trustees determine that such fees are (or are likely to be) greater than the amount of fees being paid to investment managers of other income-producing real estate funds for tax-exempt investors, then the trustees must cause FIRF to employ an independent consultant to review each of the fees being paid to the investment manager. In addition, at the request of plans holding not less than 75 percent of the outstanding units of FIRF (but not more often than annually), an independent consultant selected by the investors may review the advisory fees being charged by the investment manager. No statutory or administrative exemptive relief would be available for the receipt of any fees by the investment manager which are determined to be in excess of reasonable fees.

8. The applicants have submitted an exemption request seeking the same relief as granted to bank collective investment funds in PTE 80–51 with respect to transactions between the Funds and parties in interest to Participating Plans. The applicants represent that they can satisfy the conditions for the subject transactions as exempted for bank collective investment funds in PTE 80–51, except that the Funds here are not maintained by a bank as trustee.

9. FIRF will invest in a number of different properties dispersed geographically. Prospective tenants for FIRF's properties may include employers or their affiliates whose plans are participating in the funds, persons providing services to such a plan, and fiduciaries of such a plan. While any given lease typically will account for only a small percentage of rental income to FIRF, and the participation of a party in interest will be proportionately small, it would be necessary without an exemption to check every prospective tenant of property owned by FIRF to ascertain whether that tenant is a party in interest with respect to any Participating Plan. The applicants assert that failure to grant the proposed exemption could result in the denial of leases to the best tenants or the failure to purchase valuable properties, with a commensurate injury to FIRF and its Participating Plans.

10. The applicants also request an exemption which would permit the investment manager or its affiliates to perform direct property management services for the Funds. The Trust Agreement prohibits the investment manager or its affiliates from performing property management services for any property or properties owned by FIRF (other than supervising the performance of other property managers employed by FIRF by reviewing leasing matters, contracts respecting the properties, repairs and maintenance programs, proposed refinancings, insurance programs and reports, and conducting periodic inspections of the properties) unless the contract is approved by a majority of the independent trustees. Under no circumstances will the investment manager or its affiliates receive any compensation for performing the supervisory services set forth above (although they will receive reimbursement of travel expenses incurred in inspecting FIRF's properties).

Lawrence-Pearce and its affiliates do not anticipate requesting approval by the independent trustees to perform direct management services for any property owned by FIRF unless the property fails to perform as anticipated under the direction of an existing independent property manager. The decision to remove the unaffiliated property manager would be made by majority of the seven trustees. A majority of the independent trustees would then select the replacement property manager, which could be Lawrence-Pearce, an affiliate of Lawrence-Pearce or an unaffiliated property manager. The independent trustees would be free to consider any other property manager and would not be required to consider Lawrence-Pearce or an affiliate as the first choice to replace the existing property manager.

Even if the independent trustees approve the assumption of management control of a property by the investment manager or its affiliates in order to protect the interests of the Fund's participants, compensation will be determined by the independent trustees and may not exceed that charged by qualified unaffiliated persons performing similar property management services for similar properties in the geographical area where the property is located. In accordance with standard real estate practice, the property manager will receive a fixed percentage of the rents from the property, plus reimbursement for direct expenses. In determining the percentage of rents to be paid, the independent trustees will survey unrelated management firms that manage property of the same type in the area that the property is located. Based on this survey and their own real estate expertise, the independent trustees will set the rate to be paid to the affiliated property manager and the terms of the management agreement. Moreover, no leasing commissions or lease renewal commissions may be charged by the investment manager or its affiliates. Thus, the applicants represent, if the investment manager or its affiliates assume management control, there can be a significant cost savings to FIRF's participants because leasing commissions will not be charged. In addition, the applicants assert that FIRF's participants will benefit from Lawrence-Pearce's familiarity with the property and its incentive as FIRF's investment manager to render first-rate management performance to preserve the value of the Fund's property. Property management fees for an affiliated property manager will be communicated to investing plans as part of the notice of pendency of the proposed exemption. Each potential Participating Plan will be given a copy of the notice of proposed exemption with the Private Placement Memorandum. If any plans receive the Private Placement Memorandum before the notice of proposed exemption is published, a copy of the notice will be sent within 7 business days after publication of the notice. A letter accompanying the notice will inform investing plans of their right to comment and will state that fees to affiliated property managers will be determined as described above. Any plans that invest after the exemption is granted will receive a copy of the exemption with the Private Placement Memorandum and an accompanying letter that states how fees to affiliated property managers will be determined. Compensation for any affiliated property manager will be subject to the same review by the independent trustees and Participating Plans as are fees for the investment manager (described in paragraph 7 above). As stated in paragraph 7, neither statutory nor administrative exemptive relief would be available for the receipt of any fees by the property manager which are determined to be in excess of reasonable fees.

11. In the event that one or more of FIRF's independent trustees resigns or otherwise ceases to serve in such capacity, the remaining independent trustees must select a successor independent trustee or trustees. If at any time there are no remaining independent trustees, the three successor independent trustees will be selected by a majority of the trustees then in office. Any successor trustee will have real

estate or investment expertise and experience similar to that of the original three independent trustees and will be equally independent. The investment manager will have no authority to remove the independent trustees. Under the group trust agreement, only the Participating Plans have the authority to remove a trustee, by vote or written consent of such plans holding not less than 75% of the outstanding Units at such time. In addition, the investment manager has no control over the fees paid to the independent trustees. Compensation for the independent trustees is set forth in the group trust agreement. Independent trustees are to receive $5,000 per year, payable quarterly, plus $600 for each trustees' meeting. The group trust agreement provides for annual increases in the trustees' compensation equal to 50 percent of the annual percentage increase in the Consumer Price Index. This compensation formula is fixed in the group trust agreement and cannot be altered by the investment manager. Trustees affiliated with the investment manager receive no compensation except for reimbursement of travel expenses.

12. As stated in paragraph 1 above, the applicants represent that Lawrence-Pearce is a registered investment adviser under the Investment Advisers Act, of 1940. Therefore, certain, but not all of the activities and operations of the investment manager are regulated by the SEC and are subject to periodic examination.

13. FIRF will be audited at least annually by a nationally-known certified public accounting firm which uses procedures for auditing and examination comparable to those used by a bank examiner in a compliance examination. The audit and examination procedures will be specifically designed for exempt group trusts investing in real estate such as FIRF. The accounting firm will perform tests to trace the history of ownership of property acquired by FIRF to insure that the investment manager and its affiliates have never had a prior interest in the property. The accounting firm will also perform tests to ensure that lease transactions are not entered into with parties related to the investment manager, its affiliates, or any plan investing in FIRF except as permitted by the proposed exemption. The accounting firm will perform tests in general to ensure compliance with provisions of the Act. The accounting firm will also recompute the investment manager's fee in compliance with the Investment Management Agreement and will perform reasonableness tests on all management fees. The accounting firm will maintain documentation of all significant investor-related matters. As part of obtaining this documentation, the accounting firm will review the files of the investment manager and its affiliates for completeness. The accounting firm will also confirm the cash balances of all bank accounts where FIRF's monies are held. Finally, the accounting firm will confirm all aspects of the sale agreement with those parties selling property to FIRF.

14. In summary, the applicants represent that the subject transactions meet the criteria of section 408(a) of the Act because: (1) The decision to retain Lawrence-Pearce or its affiliate to provide property management services to the Funds and the compensation to be paid to Lawrence-Pearce will be determined by a majority of the independent trustees and will not exceed market rates for comparable services, excluding leasing commissions, in the area where the managed property is located; (2) the Funds will be able to make the best possible real estate investments; (3) each of the protections provided to investing plans and their participants and beneficiaries by PTE 80–51 will be satisfied for transactions involving parties in interest to Participating Plans, except that the Funds are privately maintained; and (4) the decisions to invest in the Funds will be made by knowledgeable fiduciaries of large employee benefit plans on the basis of a detailed Private Placement Memorandum. Furthermore, such fiduciaries are unrelated to Lawrence-Pearce or any of its affiliates.

Notice to Interested Persons

Within 10 days after the publication of this notice of proposed exemption in the **Federal Register**, Lawrence-Pearce and its affiliates will send by mail a copy of such notice to the appropriate fiduciary of each plan or trust that has subscribed to invest in FIRF. The notice will also inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the following exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Section I. Exemption for Certain Transactions Involving the Fund

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transactions Between Parties-In-Interest and the Fund: General.*

Any transaction between a party-in-interest with respect to a Participating Plan and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if the party in interest is not Lawrence-Pearce or one of its affiliates and if, at the time of the transaction, acquisition or holding, the interest of the plan, together with the interests of any other plans maintained by the same employer or employee organization in the Fund, does not exceed 5 percent of the total of all assets in the Fund.

(2) *Special Transactions Not Meeting the Criteria of Section I(a)(1) Between Employers of Employees Covered by a Multiemployer Plan and the Fund.*

Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiemployer plan (as defined in section 3(37)(A) of the Act and section 414(f)(1) of the Code) that is a Participating Plan, and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if at the time of the transaction, acquisition or holding—

(A) The interest of the multiemployer plan in the Fund does not exceed 10 percent of the total assets in the Fund, and the employer is not a substantial employer with respect to the plan, or

(B) The interest of the multiemployer plan in the Fund exceeds 10 percent of the total assets in the Fund, but the employer is not a substantial employer with respect to the plan and would not be a substantial employer if "5 percent" were substituted for "10 percent" in the definition of "substantial employer."

(3) *Acquisitions, Sales, or Holdings of Employer Securities and Employer Real Property.*

(A) Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer securities or employer real property by the Fund which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this Section I, if no commission is paid to Lawrence-Pearce or to the employer, or any affiliate of Lawrence-Pearce or the employer in connection with the acquisition or sale of employer securities or the acquisition, sale or lease of employer real property; and

(i) In the case of employer real property—

(aa) Each parcel of employer real property and the improvements thereon held by the Fund are suitable (or adaptable without excessive cost) for use by different tenants, and

(bb) The property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) In the case of employer securities—

(aa) Neither Lawrence-Pearce nor any of its affiliates is an affiliate of the issuer of the security, and

(bb) If the security is an obligation of the issuer, either:

1. The Fund owns the obligation at the time the plan acquires an interest in the Fund, and interests in the Fund are offered and redeemed in accordance with valuation procedures of the Fund applied on a uniform or consistent basis, or

2. Immediately after acquisition of the obligation: (a) not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such plan, and (b) in the case of an obligation that is a restricted security within the meaning of Rule 144 under the securities Act of 1933, at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer. Lawrence-Pearce, its affiliates and any collective investment fund maintained by Lawrence-Pearce or its affiliates shall be considered to be persons independent of the issuer if Lawrence-Pearce is not an affiliate of the issuer.

(B) In the case of a Participating Plan that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real property with respect to which Lawrence-Pearce or its affiliate has investment discretion does not exceed 10 percent of the fair market value of all the assets of the Participating Plan with respect to which Lawrence-Pearce or its affiliate has such investment discretion.

(C) For purposes of the exemption contained in subsection (A) of this section (3), the term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to, a person who is a party-in-interest with respect to a Participating Plan by reason of a relationship to the employer described in section 3(14) (E), (G), (H) or (I) of the Act.

(b) The restrictions of section 406(a)(1) (A) through (D) and section 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the transactions described below, if the conditions of Section III are met.

(1) *Transactions with Persons Who Are Parties-in-Interest With Respect to a Participating Plan Solely by Virtue of Being Certain Service Providers or Certain Affiliates of Service Providers.*

Any transaction between the Fund and a person who is a party-in-interest with respect to a Participating Plan if—

(A) The person is a part-in-interest (including a fiduciary) solely by reason of providing services to the Participating Plan, or solely by reason of a relationship to a service provider described in section 3(14) (F), (G), (H) or (I) of the Act, or both, and the person neither exercised nor has any discretionary authority, control, responsibility or influence with respect to the investment of the Participating Plan's assets in, or held by, the Fund, and

(B) The person is not an affiliate of Lawrence-Pearce.

(2) *Certain Leases and Goods.*

The furnishing of goods to the fund by a party-in-interest with respect to a Participating Plan or the leasing of real property owned by the Fund to such party-in-interest and the incidental furnishing of goods to such party-in-interest by the Fund, if—

(A) In the case of goods, they are furnished to or by the Fund in connection with real property owned by the Fund;

(B) The party-in-interest is not Lawrence-Pearce, any affiliate of Lawrence-Pearce, or one of the other Funds; and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Fund with the same party-in-interest, or any affiliate thereof) does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the Fund prior to the transaction.

(3) *Management of Real Property.*

Any services provided to the Fund by Lawrence-Pearce or by an affiliate of Lawrence-Pearce in connection with the

management of the real property owned by the Fund, if (A) the compensation paid to Lawrence-Pearce or its affiliate does not exceed the compensation charged by qualified, unaffiliated persons for performing similar services in the area in which the Fund property is located, and (B) the provision of such services and the fees paid are authorized by a majority of the Fund's independent trustees.

(4) *Transactions Involving Places of Public Accommodation.*

The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Fund to a party-in-interest with respect to a Participating Plan, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

(c) The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the purchase and sale of units of beneficial interest in the Fund if no more than reasonable compensation is paid therefor, each purchase and sale is authorized in writing by a fiduciary of the Participating Plan who is independent of Lawrence-Pearce and any of its affiliates, and the applicable conditions of Section III are met.

Section II. Excess Holdings Exemption for Employee Benefit Plans

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through the Fund) by a Participating Plan if (1) the acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer securities or employer real property held by the Fund; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and (3) the applicable conditions set forth in Section III of this exemption are met.

Section III. General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of Lawrence-Pearce or its affiliate, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) Lawrence-Pearce or its affiliate maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section III to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Lawrence-Pearce or its affiliate, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the code, if the records are not maintined, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a Participating Plan who has authority to acquire or dispose of the interests in the Fund of the Participating Plan or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any Participating Plan or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any Participating Plan, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine trade secrets of Lawrence-Pearce or its affiliate, or commercial or financial information which is privileged or confidential.

Section IV. Definitions and General Rules

For the purposes of this exemption,

(a) The term "the Fund" shall include FIRF and any collective investment fund that may hereafter be established, operated and managed by Lawrence-Pearce or its affiliate in essentially the same manner as FIRF.

(b) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any officer, director, employee, relative of, or partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(e) The term "substantial employer" means for any plan year an employer (treating employers who are members of the same affiliated group, within the meaning of section 1563(a) of the Code, determined without regard to section 1563(a)(4) and (e)(3)(c) of the Code, as one employer) who has made contributions to or under a multiemployer plan for each of—

(1) The two immediately preceding plan years, or

(2) The second and third preceding plan years, equaling or exceeding 10 percent of all employer contributions paid to or under that plan for each such year.

(f) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquisition is made, on or after the effective date of this exemption, or a renewal that requires the consent of the Fund occurs on or after the effective date of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to a holding exempt by virtue of Section I(a)(1) at such time as the interest of the Participating Plan exceeds the percentage interest limitation of Section

I(a)(1), unless no portion of such excess results from an increase in the assets allocated to the Fund by the Participating Plan. For this purpose, assets allocated do not include the reinvestment of Fund earnings. Nothing in this paragraph (f) shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(g) Each Participating Plan shall be considered to own the same proportionate undivided interest in each asset of the Fund as its proportionate interest in the total assets of the Fund as calculated on the most recent preceding valuation date of the Fund.

(h) A trustee of the Fund is independent if (1) the trustee is not otherwise affiliated with the Fund's investment manager or properly manager of their affiliates, (2) the trustee is not a fiduciary of any Participating Plan, and (3) the trustee is not subject to the authority or control of the Fund's investment manager or property manager or their affiliates.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be comsummated pursuant to this proposed exemption.

Signed at Washington, D.C., this 30th day of August, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24366 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. L-3267]

Proposed Exemption for Certain Transactions Involving the Washington Automotive Wholesalers Association Health and Welfare Trust Located in Seattle, Washington

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt the proposed leasing (the Proposed Lease) of certain real property by the Washington Automotive Wholesalers Association Health and Welfare Trust (the Plan) to the Washington Automotive Wholesalers Association (the Association), the sponsor of the Plan. The proposed exemption, if granted, would affect the Association, participants and beneficiaries of the Plan and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before October 13, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. L-3267. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act. The proposed exemption was requested in an application filed by the trustees (the Trustees) of the Plan, pursuant to section 408(a) of the Act and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a self-insured health and welfare plan. It is administered by the Trustees who are appointed by the Association. Presently, the Plan has no personnel or office space and, as a result, engages personnel and space of the Association. The Plan desires to be able to have space and personnel of its own to take over the services and the space presently supplied by the Association. The Association is presently one of several tenants in a one-story building (the Building), located in Seattle, Washington. The Property is owned by WPC Inc. (WPC), an unrelated corporation that has no other significant assets and was organized specifically to own and operate the Building. The Plan has acquired a one-year option from two unrelated parties to purchase two-thirds of the outstanding stock of WPC. The Plan currently is negotiating with the remaining one-third shareholder, who also is unrelated to the Plan, for an option on the remaining one-third of the stock of WPC.

2. The Trustees are requesting an exemption which will allow the Plan, if it can obtain all of the stock of WPC, to enter into the Proposed Lease with the Association for a portion (approximately 45%) of the Building. The remainder of the Building will be leased to unrelated parties. The applicants represent that in no event can the rent or terms of the Proposed Lease be less favorable to the Plan than those which the Plan receives from the unrelated lessees. An independent party, Mr. Robin Hopkins (Hopkins) whose office is located in Seattle, Washington has examined the Proposed Lease. The applicants represent that Hopkins is experienced in both the pension and real estate fields. Based on an appraisal of the Building by Hopkins, the initial term of the Proposed Lease will be five years with a monthly rent of $650. The Plan will have an option for an additional five years at a rental rate determined by Hopkins to be the fair market rental rate at such time. Prior to the Plan entering into the Proposed Lease, Hopkins must: (1) Certify that the transaction will be in the best interests of the participants and beneficiaries of the Plan; (2) certify that the terms and conditions of the Proposed Lease are at least as favorable to the Plan as those which the Plan could receive from an unrelated party in a similar transaction; and (3) agree to monitor the terms and conditions of the Proposed Lease on behalf of the Plan. In addition, prior to the Plan entering into the proposed transaction, the Trustees must certify that the transaction is in the best interests of the participants and beneficiaries of the Plan.

3. The applicants represent that the Plan will incur increased expenses and resultant lower benefits if the administration of the Plan cannot be coordinated with the administration of the Association that occurs by the Association being a tenant in the Building. In addition, the Plan will be spared the expense of finding another tenant and any costs that might occur in changes that a new tenant may require.

4. In summary, the applicants represent that the propsoed transaction meets the requirements of section 408(a) of the Act as follows: (1) The Trustees represent that it will be in the best interests of the participants and beneficiaries of the Plan; (2) the terms and conditions of the Proposed Lease will be determined and monitored by an independent party; (3) it will prevent the Plan from having the additional expense of locating a new tenant; and (4) the Plan will receive the fair market rental rate throughout the duration of the Proposed Lease.

Notice to Interested Persons

Within ten days of its publication in the Federal Register a copy of the notice of pendency and a statement advising interested persons of their right to comment or request a hearing will be posted on each employee bulletin board of sponsoring employers and the same information within the same time period will be mailed to all appropriate employee organizations.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act.

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accorddance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act shall not apply to the Proposed Lease of the Building between the Plan and the Association provided that the terms and conditions of the Proposed Lease are at least as favorable to the Plan as those which they could receive from an unrelated party in a similar transaction.

The Proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated to the exemption.

Signed at Washington, D.C., this 6th day of August 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare, Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-24335 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-29-M

Occupational Safety and Health Administration

[V-82-6]

Burroughs OEM Corp.; Application for Variance and Interim Order and Grant of Interim Order

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: (1) Notice of application for variance and interim order. (2) Grant of interim order.

SUMMARY: This notice announces the application of the Burroughs OEM Corporation for a variance and an interim order pending a decision on the application for a variance from the standards prescribed in 29 CFR 1910.1025(e)(1) and 1910.1025(i)(3) concerning the utilization of engineering and work practice controls for limiting exposure to lead, and the provision and assurance of use of shower facilities respectively. It also announces the granting of an interim order until a decision is rendered on the application for variance.

DATES: The effective date of the interim order is September 3, 1982. The last date for interested persons to submit comments is October 4, 1982. The last date for affected employers and employees to request a hearing on the application is October 4, 1982. The interim order shall remain in effect until June 30, 1983, or until a decision is rendered on the application for a variance.

ADDRESS: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Room N3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination at the above address, Telephone: (202) 523–7183

or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036

U.S. Department of Labor, Occupational Safety and Health Administration, Belle Mead GSA Depot, Building T3, Belle Mead, New Jersey 08502

Notice of Application

Notice is hereby given that the Burroughs OEM Corporation, 141 Mount Bethel Road, Warren Township, New Jersey 07060 has made application

pursuant to Section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970 (84 Stat. 1594, 29 U.S.C. 655) and 29 CFR 1905.10 for a temporary variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.1025(e)(1) which require that engineering and work practice controls be used to control exposure to lead, and in 29 CFR 1910.1025(i)(3)(i),(ii), and (iii), which require that shower facilities be provided and used.

The address of the place of employment that will be affected by this application is as follows: 141 Mount Bethel Road, Warren Township, New Jersey 07060.

The applicant certifies that employees who would be affected by the variance have been informed of the application by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is unable to comply with the requirements of § 1910.1025(e)(1) by the date required by the standard and, further, that when it is able to comply with these requirements, the shower facilities no longer will be required or used pursuant to § 1910.1025(i)(3).

The applicant states that the manufacture of the display devices in New Jersey requires the use of lead glass frit, a material considered to be hazardous because it contains lead oxide. Lead glass frit is presently the state-of-the-art material for manufacture of display devices because it has the necessary physical properties and the melting temperature required. The lead glass frit is mixed with other materials to make either a paste or liquid which is used as a peripheral sealant for the various forms of display devices. The manufacturing process requires that the paste or liquid be applied either manually or through spray operations to the display devices, which are then transferred to various high temperature sealing ovens, which are used to melt the material to form a glass ceramic seal.

The applicant has implemented a comprehensive safety program which has assured that no employee is exposed to airborne concentrations of lead above the permissible exposure limits. This current program is, however, partially dependent upon the use of respirators. The applicant is presently in the process of implementing improvements to its safety program which should eliminate the need to use respirators. However, these improvements require extensive new construction and alteration of existing facilities, and cannot be completed before June 30, 1983.

The applicant states further that on December 11, 1981, the Occupational Safety and Health Administration (OSHA), issued a revised Supplemental Statement of Reasons; Amendment of Final Rule, concerning Occupational Exposure to Lead, which required employers within the electronics industry to reduce and maintain employee exposure to lead to or below 50 ug/m^3, without regard to respirators, within one year from the effective date. For all industries for which the standard has been found feasible, OSHA has taken the position that the effective date of the standard was June 29, 1981, with regard to engineering controls and construction of hygiene facilities. On that date, the Supreme Court of the United States denied certiorari in the matter of *Lead Industries Association, Inc. et al.* v. *Donovan*, 101 S. Ct. 3148 (1981), and dissolved its stay of implementation of the lead standard.

The applicant has stated and produced substantiating evidence that from about July, 1979, the Corporation has explored a variety of methods and processes in an effort to protect its employees, including product redesign, use of alternative (non-lead) materials in the manufacturing process, work station redesign and engineering controls. The applicant has determined that the only feasible method presently available to reduce employee exposure to lead to or below the permissible exposure limit, without utilizing respirators, is work station redesign and related additional engineering controls. The work station redesign project is underway and is scheduled for completion about June 30, 1983.

In the interim, the applicant states that is has already implemented a comprehensive safety program to protect its employees from the hazards of lead which includes the use of engineering and administrative controls, respirators, full-body protective work clothing, hygiene practices, biological monitoring medical removal, and extensive employee training.

The applicant states that, because of the steps it has taken, including respirator selection based upon quantitative fit testing which prevents employee exposure to airborne concentrations of lead above the permissible exposure limit, and the requirement that all employees working in any lead manufacturing area wash all exposed skin areas with soap and tepid running water and use medicated hand lotion each time they leave the lead manufacturing areas, it is providing adequate protection for the employees.

Grant of Interim Order

It appears from the application for a temporary variance and an interim order that, as required by Section 6(b)(6)(A) of the Act, the Burroughs OEM Corporation is unable to comply with the requirement of 29 CFR 1910.1025(e)(1) by the date required by the standard. It appears further, that compliance with 29 CFR 1910.1025(i)(3) is not warranted inasmuch as the Corporation is presently implementing engineering controls which by June 30, 1983 should render unnecessary the use of respiratory protection and thereby eliminate the requirement to construct and use showers. It appears that the applicant is taking all available steps to safeguard its employees during the time needed to come into compliance with the standard. It further appears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore, it is ordered, pursuant to the authority in Section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.10(c) and in Secretary of Labor's Order No. 8–76 (41 FR 25059), that the Burroughs OEM Corporation be, and is hereby, authorized to conduct its manufacturing processing prior to coming into compliance with the requirements of 29 CFR 1910.1025(e)(1), by complying with the following:

1. The terms of this Order are applicable to all employees assigned to work in lead glass frit areas.

2. All such employees shall have blood lead level and ZPP (Zinc Protoporphyrin) determinations at least every two months.

3. Respiratory protection, as required by 29 CFR 1910.1025(e)(2), shall be worn when the concentration of lead in air is at or above 50 micrograms per cubic meter of air (50 $\mu g/m^3$), average over an 8 hour period.

Quantitive fit tests, as required by 29 CFR 1910.1025(f)(3)(ii), shall be given to assure proper fit of the respirator.

4. Any employee whose blood lead level has increased by at least 10 micrograms per 100 grams of whole blood (10 $\mu g/100g$) from one sampling to another shall be retested immediately, even though the higher level is below 40 $\mu g/100g$. If the retest confirms this increase, the employer shall investigate to determine the cause.

5. Employees shall wear protective clothing which is impervious to lead dust, to prevent contaminating their underclothing or otherwise exposed

portions of their bodies. This clothing shall consist of, at the least, the following: Full-body protective coveralls, shoe covers, gloves and some form of snood (cloth bag) completely covering the hair.

6. The employer shall assure that employees wash hands, face, neck, and arms (if arms/neck are exposed) with soap and tepid running water and use medicated hand lotion when leaving the lead glass frit areas.

7. The employer shall assure that the employees' protective work clothing, including shoes, are removed and placed in the appropriate container prior to leaving the plant.

8. The employer shall provide separate storage facilities (clean/dirty) for protective clothing, tools, and personal items.

9. The employer shall continue with all other facets of his comprehensive safety program, shall comply with all provisions in this grant of interim order and, in addition, shall not be relieved from compliance with all other applicable provisions of the Occupational Standard for Exposure to Lead.

Burroughs OEM Corporation shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for a variance.

This Interim Order shall remain in effect until June 30, 1983, or until a decision is rendered on the application for a variance.

Signed at Washington, D.C., this 31st day of August 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-24298 Filed 9-2-82; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

President's Committee on the Arts and the Humanities; Meeting

September 1, 1982.

Notice is hereby given of Plenary Meeting I of the President's Committee on the Arts and the Humanities. The purpose of the meeting is to plan the initial work of the Committee and to establish its operating procedures.

Plenary Meeting I will convene at 2:15 p.m. on tuesday, September 21, 1982 in the Whittall Room, Library of Congress, Thomas Jefferson Building, 10 First Street, S.E., Washington, D.C. The meeting will continue until approximately 4:30 p.m.

This meeting will be open to the public. However, since seating for the public is limited to 30 persons, individuals wishing to attend must request a reservation by calling Caroline McMullen at the National Endowment for the Arts at 202–634–1504 after September 12, 1982 and before September 18, 1982.

Jeffrey M. Mandell,

General Counsel to the Chairman National Endowment for the Arts.

[FR Doc. 82-24227 Filed 9-2-82; 8:45 am]

BILLING CODE 7537-01-M

OFFICE OF PERSONNEL MANAGEMENT

Renewal of the Federal Prevailing Rate Advisory Committee

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management is renewing the charter for the Federal Prevailing Rate Advisory Committee (The Committee). This action is taken in accordance with provisions of the Federal Advisory Committee Act which requires the rechartering of advisory committees at least every two years as a means of insuring against the continuation of committees which are no longer carrying out the purposes for which they were established. The Committee will continue in its advisory role to the Director of the Office of Personnel Management in matters pertaining to the establishment of prevailing rates under 5 U.S.C., chapter 53, subchapter IV, as amended.

EFFECTIVE DATE: September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Samuel E. Zattiero, (202) 632–4533.

Office of Personnel Management.

Donald J. Devine,

Director.

Federal Prevailing Rate Advisory Committee Charter

A. *Official Designation.* The Federal Prevailing Rate Advisory Committee.

B. *Objectives and Scope.* The Committee shall study the prevailing rate system and other matters pertinent to the establishment of prevailing rates under 5 U.S.C., chapter 53, subchapter IV, as amended.

C. *Duration.* There is no time limit set forth in 5 U.S.C., chapter 53, subchapter IV. The mandate of the Committee is one of a continuing nature, until amended or revoked by appropriate act of Congress.

D. *Responsible Agency and Official.* Recommendations of the Committee are made to the Office of Personnel Management. The Chairman of the Committee reports to the Director, Office of Personnel Management.

E. *Agency Providing Support.* United States Office of Personnel Management.

F. *Committee Responsibilities.* The Committee is advisory. Its primary responsibility is to study the prevailing rate system and from time to time advise the Office of Personnel Management thereon. The Committee shall submit an annual report to the Office of Personnel Management and the President for transmittal to Congress, as required by section 5347(e) of 5 U.S.C.

G. *Estimated Annual Operating Costs in Dollars and Staff-Years.* Using current salary schedules, $160,000 and 3 staff-years.

H. *Estimated Number and Frequency of Meetings.* The meeting schedule contemplated for the Committee is one meeting each week throughout a calendar year; more frequent meetings shall be scheduled when deemed necessary.

I. *The Committee's Termination Date.* There is no termination date. The Chairman of the Committee serves a 4-year term, as set forth in section 5347(a)(1) of 5 U.S.C. Management members serve at the pleasure of the designating authority. Labor membership is reviewed every 2 years to assure entitlement under the criteria set forth in section 5347(b) of 5 U.S.C.

Date Filed. September 3, 1982.

[FR Doc. 82-24233 Filed 9-2-82; 8:45 am]

BILLING CODE 6325-01-M

Privacy Act of 1974; Proposed Amendment of a Routine Use for an Existing System of Records

AGENCY: Office of Personnel Management.

ACTION: Notice; proposed amendment to a routine use for existing system of records.

SUMMARY: The purpose of this document is to propose an amendment to a routine use for the Office's General Personnel Records system (OPM/GOVT–1). The amended routine use, once in effect, will permit the disclosure of information from this system of records to the Department of Housing and Urban Development (HUD). The disclosure of information will be used only for duly authorized matching programs in HUD's attempt to eliminate waste, fraud, and abuse in its benefit recipient programs.

DATE: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received by October 4, 1982.

Unless a notice to the contrary is published, this amendment will become effective 30 days after the end of the comment period.

ADDRESS: Address comments to: Assistant Director for workforce Information, Office of Personnel Management (Room 5488), 1900 E Street, N.W., Washington, D.C. 20415. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John Sanet, Workforce Records Management Division, (202) 254–9790.

SUPPLEMENTARY INFORMATION: Based on a review of various Federal assistance programs, it was discovered that some Federal employees may have improperly received government assistance or have outstanding debts that are not being repaid to the Federal government. The President's Council on Integrity and Efficiency (PCIE) believed it prudent to identify Federal employees, on a government-wide basis, who improperly received government benefits or have delinquent debts.

On February 26, 1982 (47 FR 8438), a proposed routine use was published that, when subsequently adopted, permitted OPM to disclose data from the Central Personnel Data File to specified Federal agencies for use in duly authorized matching programs.

HUD has now requested that they be included in this matching project and provided with the pertinent data. The Inspector General of HUD has given OPM written assurance that the match will be conducted in accordance with the Office of Management and Budget's revised "Guidelines for Conducting Computerized Matching Programs" (47 FR 21656; May 19, 1982). In addition, the Department of Health and Human Services (HHS) wishes to extend its use of the previously provided data to two other benefit programs it administers.

One data element that was listed in the original PCIE project, handicap information, was determined not proper for disclosure and was therefore not provided to the matching agencies. Similarly, this data element will not be provided in these particular matching projects and has been eliminated from the routine use.

The Office fully recognizes that in this particular project, only the records of Federal employees are being examined and has taken certain steps to protect the privacy of those individuals while furthering the goals of eliminating waste, fraud, and abuse in the numerous recipient programs administered by HUD and the two additional HHS programs. However, it should be noted that the PCIE, in its attempt to reduce waste, fraud, and abuse in Government benefit programs, is not confining its review to Federal employees. This particular project that OPM is participating in, "Federal Employees Receiving Government Assistance," is just one of many projects of the PCIE. Others encompass non-Federal employees who are receiving benefit assistance as private citizens.

The following amendment is designed to allow data from OPM/GOVT–1 to be disclosed to HUD for purposes of conducting matches with its various benefit recipient programs and to HHS for the two additional programs listed. The following HUD and HHS programs are added to the PCIE computer matching project "Federal Employees Receiving Government Assistance."

* * * * *

III. Health and Human Services.

* * * * *

Health Professional Student Loan Programs (Title 7 of the Public Health Service Act; Section 740–44, as amended).

Nursing Student Loan Programs (Title 8 of the Public Health Service Act; Section 835–41, as amended).

* * * * *

VII. Housing and Urban Development.

Low Income Public Housing Authority, U.S. Housing Act of 1937 as amended (Pub. L. 75–412) and Title II of the Housing and Community Development Act of 1974 (Pub. L. 93–383).

Lower Income Rental Assistance Authority, U.S. Housing Act of 1937, Section 8 (Pub. L. 733–479) as added by the Housing and Community Development Act of 1974 (Pub. L. 93–383).

The following routine use will be added to the OPM's government-wide system of records (OPM/GOVT–1). The current notice of this system is published at 47 FR 16466 et seq. (April 16, 1982). When this change to the existing routine use becomes effective, the present routine use "gg" will cease to exist.

OPM/GOVT–1

SYSTEM NAME:

General Personnel Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

gg. To disclose information contained in the Central Personnel Data File including the name, social security number, date of birth, sex, annualized salary rate, service computation date of basic active service date, separation or retirement date, veteran's preference, retirement status, occupational series, position occupied, work schedule (full time, part time, or intermittent), agency indentifier, geographic location (duty station location), standard metropolitan service area, special program identifier, and submitting office number of all Federal employees to agencies participating in the "Federal Employee Receiving Government Assistance" Matching Project conducted by the President's Council on Integrity and Efficiency to help eliminate fraud and abuse in the benefit programs administered by agencies within the Federal government and to collect debts and overpayment owed to the Federal government.

* * * * *

[FR Doc. 82–24347 Filed 9–2–82; 8:45 am]
BILLING CODE 6325–01–M

Privacy Act of 1974; Proposed Amendment of a Routine Use for an Existing Systems of Records

AGENCY: Office of Personnel Management.

ACTION: Notice; proposed amendment to a routine use for an existing system of records.

SUMMARY: The purpose of this document is to propose an amendment to a routine use for the Office's Civil Service Retirement and Insurance Records system (OPM/CENTRAL–1). The amended routine use, once in effect, will permit the disclosure of information from this system of records to the Department of Housing and Urban Development (HUD). The disclosure of information will be used only for duly authorized matching programs in HUD's attempt to eliminate waste, fraud, and abuse in its benefit recipient programs.

DATES: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received by October 4, 1982. Unless a notice to the contrary is published, this amendment will become effective 30 days after the end of the comment period.

ADDRESS: Address comments to: Assistant Director for Pay and Benefits Policy, Office of Personnel Management (Room 4351), 1900 E Street, N.W., Washington, D.C. 20415. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:
Kenneth H. Glass, Technical Analysis Division, Office of Pay and Benefits Policy, Compensation Group, (202) 632-9677.

SUPPLEMENTARY INFORMATION: Based on a review of various Federal assistance programs, it was discovered that some Federal employees may have improperly received government assistance or have outstanding debts that are not being repaid to the Federal government. The President's Council on Integrity and Efficiency (PCIE) believed it prudent to identify Federal employees, on a government-wide basis, who improperly received government benefits or had delinquent debts.

On February 26, 1982 (47 FR 8438), a proposed routine use was published that, when subsequently adopted, permitted OPM to disclose data from the Retirement Annuity Master File to specified Federal agencies for use in duly authorized matching programs.

HUD has now requested that they be included in this matching project and provided with the pertinent data. The Inspector General of HUD has given OPM written assurance that the match will be conducted in accordance with the Office of Management and Budget's Revised "Guidelines for Conducting Computerized Matching Programs" (47 FR 21656; May 19, 1982). In addition, the Department of Health and Human Services (HHS) wishes to extend its use of the previously provided data to two other benefit programs it administers.

The Office fully recognizes that in this particular project, only the records of retired Federal employees are being examined and has taken certain steps to protect the privacy of those individuals while furthering the goals of eliminating waste, fraud, and abuse in the numerous recipient programs administered by HUD and the two additional HHS programs. However, it should be noted that the PCIE, in its attempt to reduce waste, fraud, and abuse in Government benefit programs, is not confining its review to Federal employees. This particular project that OPM is participating in, "Federal Employees Receiving Government Assistance," is just one of many projects of the PCIE. Others encompass non-Federal employees who are receiving benefit assistance as private citizens.

The following amendment is designed to allow data from OPM/CENTRAL-1 to be disclosed to HUD for purposes of conducting matches with its various benefit recipient programs and to HHS for the two additional programs listed. The following HUD programs and HHS programs are added to the PCIE computer matching project "Federal Employees Receiving Government Assistance."

* * * * *

III. Health and Human Services.

* * * * *

Health Professional Student Loan Programs (Title 7 of the Public Health Service Act; Section 740-44, as amended)

Nursing Student Loan Programs (Title 8 of the Public Health Service Act; Section 835-41, as amended)

* * * * *

VII. Housing and Urban Development.

Low Income Public Housing Authority, U.S. Housing Act of 1937 as amended (Pub. L. 75-412) and Title II of the Housing and Community Development Act of 1974 (Pub. L. 93-383)

Lower Income Rental Assistance Authority, U.S. Housing Act of 1937, Section 8 (Pub. L. 733-479) as added by the Housing and Community Development Act of 1974 (Pub. L. 93-383)

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

The following routine use will be added to the OPM's government-wide system of records (OPM/CENTRAL-1). The current notice of this system is published at 47 FR 16466 et seq. (April 16, 1982). When this change to the existing routine use becomes effective, the present routine use "ff" will cease to exist.

OPM/CENTRAL-1

SYSTEM NAME:

Civil Service Retirement and Insurance Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

ff. To disclose information contained in the Retirement Annuity Master File including the name, social security number, date of birth, sex, Office of Personnel Management claim number, health benefit enrollment code, retirement date, retirement code (type of retirement), annuity rate, pay status of case, correspondence address, and zip code, of all Federal retirees to agencies participating in the "Federal Employees Receiving Government Assistance Matching Project" conducted by the President's Council on Integrity and Efficiency to help eliminate fraud and abuse in the benefit programs administered by agencies within the Federal government and to collect debts and overpayment owed to the Federal government.

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[FR Doc. 82-24348 Filed 9-2-82; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-19021; File No. SR-MCC-82-13]

Self-Regulatory Organizations; Proposed Rule Change; Midwest Clearing Corp.; Relating to Current MCC Procedures Regarding a Failure To Deliver or Receive Securities Under CNS Where Such Securities are the Subject of a Reorganization With an Expiration Date

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 6, 1982 the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of te Proposed Rule Change

Attached as Exhibit A are current MCC procedures regarding a failure to deliver or receive securities under CNS where such securities are the subject of a reorganization with an expiration date.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The attached exhibit merely restates and clarifies current MCC procedures and practices regarding a failure to deliver or receive securities under CNS where such securities are the subject of a reorganization with an expiration date. Normally, buy-in procedures should be utilized for a fail to receive situation for transactions recorded in the Continuous Net Settlement (CNS) system. However, due to the time constraints involved and possible unavailability of securities in certain corporate reorganizations, buy-ins may not be a practical solution for a fail to receive. Therefore, in situations where there is an issue subject to a reorganization with an expiration date, procedures for issuing liability notices can be used at the option of the participant which has failed to receive its securities.

Unlike other clearing corporations, MCC has historically allowed securities subject to a reorganization with an expiration date to remain eligible in CNS throughout the reorganization period. Exhibit A restates delivery requirements, protection responsibilities, cut-off times, etc. which have been in effect under the CNS system of MCC.

The procedures are consistent with Section 17A(b)(3)(F) of the Securities Exchange Act of 1934 in promoting the prompt and accurate clearance and settlement of securities transactions for which MCC is responsible, and in fostering cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Clearing Corporation does not believe that the procedures will place any burdens on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received. However, industry-wide discussions are taking place regarding the formulation of uniform procedures among all the clearing corporations.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 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 Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before September 24, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 27, 1982.

George A. Fitzsimmons,

Secretary.

Exhibit A

The following are MCC stated policies and procedures under MCC Rule 9, Section 3, "Failure to Deliver or Receive Securities Under CNS," where such securities are undergoing a reorganization with an expiration date. Current procedures are presently under review throughout the industry and may be amended in the future. Currently, however, this bulletin is being issued to restate and clarify the practices and procedures used at this time by the MCC/MSTC Capital Structures Department pursuant to MCC Rule 9, Section 3.

Normally, buy-in procedures (see Administrative Bulletin B–82/1139, dated February 1, 1982) should be utilized for a fail to deliver situation for transactions recorded in the Continuous Net Settlement (CNS) system. However, due to the time constraints involved and possible unavailability of securities in certain corporate reorganizations, buy-ins may not be a practical solution in a fail to receive. Therefore, in situations where there is an issue subject to a reorganization with an expiration date, liability notices may be used at the option of the participant with a long value/loan value position pursuant to the following procedures.

Definitions

"Tender Date" is the expiration date of the offer, or the proration date of the offer if such proration date is prior to the expiration date and the offer is oversubscribed on or prior to the proration date.

"Eligible Long Position" is a loan value position, or a long value position resulting from trades or option exercises entered into on or prior to the Tender Date, which exists:

1. on or prior to the fifth business day after the Tender Date (for those offers with a protect period of five business days or more);
2. on or prior to the last day of the protect period (for those offers with a protect period of less than five days);
3. on or prior to the Tender Date (for those offers without a protect period).

"Eligible Short Position" is a short value position resulting from trades entered into on or prior to the Tender Date or assignments of option exercise notices received on or prior to the first business day after the Tender Date, which exists:

1. On or prior to the fifth business day after the Tender Date (for those offers with a protect period of five business days or more);
2. On or prior to the last day of the protect period (for those offers with a protect period of less than five business days);
3. On or prior to the Tender Date (for those offers without a protect period).

A participant who has a Eligible Long Position, and has submitted a security withdrawal request (Street or Demand Street withdrawal request), may send a liability notice to the MCC/MSTC Capital Structures Department. *Exception:* for those offers with a protect period of five business days or less, or if the offer has no protect period, a participant who has future settling long trades which may result in the participant having an Eligible Long Position on the last day of the protect period (or on Tender Date if there is no protect period) may also submit a liability notice.

The participant must state in the notice the date and time after which delivery will not be accepted, and place designated for physical delivery of securities. The time requested for delivery cannot be any later than the normal processing cut-off time for security deposits for same day credit. The place designated for delivery can be either MCC's office in Chicago or New York City, or upon special arrangement, the offices of the tender agent. This notice must be received by the MCC/MSTC Capital Structures Department on a business day between 8:00 A.M. and 4:00 P.M. Central Time, no later than 11:30 A.M. on the business day immediately preceding the day on which the participant initiating the notice is requesting delivery of the securities. In any event, this notice must be received (1) no later than 4:00 P.M. Central Time on the fifth

business day of the protect period if the protect is longer than five business days, or (2) no later than the business day immediately preceding the last business day of the protect period if the protect period is five business days or less, or (3) no later than the business day immediately preceding the Tender Date if there is no protect period.

If the physical securities are not received by the time and date and at the place specified in the liability notice, it is the responsibility of the participant to send a written notice executing on the liability. This execution notice must be received by the MCC/MSTC Capital Structures Department on the date designated in the original liability notice, as promptly as practible, but in any event, no later than one hour after the time designated for delivery of securities.

Failure to submit a liability notice and execution notice within the prescribed time periods will result in the participant not being protected for the terms of the offer by MCC.

MCC shall give written notice of liability to any and all participants which have or may have (based upon future settling trade activity) Eligible Short Positions. Such participants shall be obligated to physically deliver securities by the date and time and at the place designated in the notice of liability from MCC. A Depository Delivery Instruction (DDI) book-entry movement or a Third Party DDI may be used to effect delivery of securities to satisfy a liability notice. However, DDI's and Third Party DDI's on the last day of the protect period are *not* acceptable and physical delivery is required. If such participant(s) fail to take such physical delivery as required, MCC may give notice of execution (by any means of communication) to participants who have failed to deliver. Such participants may be held liable for the terms of the offer and be charged accordingly by a process of random selection.

Relative to these procedures, individual account symbols will be treated separately even though assigned to the same participant. MCC's delivery obligations to a participant who submits a liability notice are satisfied once shares are allocated to a participant's Eligible Long Position within the proper time frames and such position goes free, except where delivery is required outside Chicago and an allocation does not take place before the date stated in the liability notice.

Any participant receiving delivery of securities via allocations through the Continuous Net Settlement (CNS) system, pursuant to a liability notice submitted by it, resulting in such participant's Eligible Long Position converting to clearing free or loan free position, should take precautions to segregate such securities after they have been allocated to such participant. One method of properly segregating such delivered securities would be to have an automatic DDI entered so that shares allocated to loan free or clearing free will automatically be moved to such partcipant's depository free position. Otherwise, such shares could be utilized by the system to settle any short settling trades of such participant or could be loaned out.

If it is necessary to execute on a liability against a participant with an Eligible Short Position, the MCC/MSTC Capital Structures Department shall make every effort to aid such participant in obtaining the proceeds of the offer or to cover a protect at the agent, even after the execution notice is sent to such participant. *However, if any such attempts to do so do not succeed, liability for the terms of the offer still remains with the participant(s) for failure to deliver by the time and date and at the place stated in the liability notice.* Under no circumstances will MCC or any participant be under any obligation to accept delivery of any securities after the date, time and other than at the place designated in the liability notice.

A liability notice submitted to MCC by any participant will not be accepted for more than the total number of shares in its Eligible Long Position. Participants must arrange for their own protects with the agent. No interest claims will be honored by MCC due to a delay of payment by the agency upon tendering of securities or upon execution on a liability and subsequent charge. In the event of competing tender offers for a target company, if a participant withdraws from one offer in order to participate in a competing offer, any executed liability notices submitted to MCC by such participant for protection on such offer from which it withdraws with the agent, must also be withdrawn from MCC. In conjunction with this, participants are reminded that under MCC Rules, participants are obligated to maintain their security positions with MCC/MSTC in compliance with all applicable laws, all rules and regulations thereunder and that the maintenance of any positions with MCC/MSTC shall constitute such participants' representation to MCC as to such compliance.

MCC reserves the right to alter these procedures and cut-off times in relation to an interfacing clearing corporation's positions with MCC/MSTC.

Questions regarding any reorganization procedures may be directed to your Participant Services Representative or to the MCC/MSTC Capital Structures Representative.

[FR Doc. 82-24397 Filed 9-2-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-19022; File No. SR-MCC-82-14]

Self-Regulatory Organizations; Proposed Rule Change; Midwest Clearing Corp., Relating to the Liabilities, Under Certain Circumstances, of Participants Who Request Securities Undergoing a Reorganization With an Expiration Date

Pursuant to Section 19(b) (1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 18, 1982 the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is MST Administrative Bulletin setting forth liabilities, under certain circumstances, of participants who request securities undergoing a reorganization with an expiration date.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to put participants on notice of their responsibilities in the event such participant requests stock undergoing a reorganization from the MST System via a physical withdrawal or depository delivery instruction (DDI), when such participant does not have a sufficient position to satisfy the request. In such instances, if the request is filled, a short value position would be created in the participant's account. This notice advises participants that if such a request is filled in an issue undergoing a reorganization with an expiration date the participant automatically assumes all responsibility for the terms of the reorganization. Because of the time constraints involved (such request could be filled as late as the last day of a protect period or on the day delivery is due a long participant) actual notice of liability pursuant to MCC's liability notice procedures (MCC-82-13) may be impossible. A participant who requests and receives stock, and thereby creates a short value position, is, in effect, borrowing stock from the system and must assume any liability to MCC for the terms of the reorganization.

The proposed rule change is consistent with Section 17A(b)(3) of the

Securities Exchange Act of 1934 in promoting the prompt and accurate clearance and settlement of securities transactions for which MCC is responsible, and in fostering cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Clearing Corporation does not believe that any burdens will be place on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the 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 Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before September 24, 1982.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 27, 1982.

George A. Fitzsimmons,

Secretary.

Exhibit A

August 17, 1982.

To: All Participants.

Attention: Operations Manager/Head Cashier.

Subject: Liability When Submitting Requests for Securities Undergoing Reorganization.

The logic of the CNS system provides participants with stock upon request as quickly as possible. On occasion a participant, who does not have a free or long value or loan value position in the system, may request stock. In these instances, if stock is available, the participant's request will be filled by the system, thereby establishing or increasing a short value position, and the securities will be delivered to or on behalf of that participant.

Should the issue be undergoing a reorganization with an expiration date, any participant who submits a request (Demand Withdrawal, Street Withdrawal, Transfer Withdrawal, or DDI) which is filled and which creates or increases a short value position in any such participant's account, prior to or on the last day of any applicable protect period, assumes all responsibility for the terms of any existing offer. Such position shall be deemed an Eligible Short Position pursuant to Administrative Bulletin #B–82/1547 "MCC Policies for Failure to Deliver or Receive Securities Under CNS." Any short value position created by such request will *automatically* carry with it a liability notice and execution notice and such participant will be held liable for the terms of the offer *even if no notice is actually given to such participant.* Reference is made to Bulletin #B–82/1547 for further information regarding MCC procedures involving reorganizations with an expiration date.

Gerald R. Broz,

Vice President, MCC/MSTC.

[FR Doc. 82–24398 Filed 9–2–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–19020; File No. SR–NASD–82–13]

Self-Regulatory Organizations; Proposed Rule Change; National Association of Securities Dealers, Inc., Relating to Utilization of a Registered Securities Depository for Confirmation Acknowledgement and Book Entry Settlement of Depository Eligible COD Transactions

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 19, 1982, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of the addition to the Association's Uniform Practice Code of rules governing the procedures for acceptance of COD (and POD) orders by Association members. In addition, the rule would require, with certain exceptions, that members accepting COD orders and their customers or the customer's agents utilize the facilities of a registered securities depository for the confirmation, acknowledgement and book entry settlement of transactions in depository eligible securities.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

I(A). Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to implement specified procedures for members to follow in the processing of customer orders for securities where the broker/dealer is to delivery (i.e., COD). A problem occurs when the COD delivery is made to a customer's clearing agent and the delivery is rejected with an explanation that the customer's instructions to receive in and pay for the securities have not been obtained. (The trade is "DK'ed"). DK'ed trades are costly to broker/dealers and the Association views the proposed rule change as a method of reducing the frequency of their occurrence thereby reducing costs and increasing the efficiency of the COD settlement process. The Association recognizes that there are registered clearing agencies which provide

facilities for rapid confirmation of COD trades and book entry delivery services which eliminate the need for physical delivery of securities and believes that the use of such facilities should be encouraged insofar as possible without adversely impacting the business of smaller broker/dealers or those which do not have such facilities available to them by virtue of clearing agency membership.

The proposed rule therefore provides an exemption for transactions where both parties to either side of the transaction (i.e., the customer and its agent or the member and its agent) are not participants in a "securities depository." This exception is designed to require the use of a depository where one is available on both sides of a transaction but to allow COD transactions outside of the depository system when the parties on one or both sides of the trade are not participants.

The proposed rule change is consistent with the requirements of sections 15A(b)(6), 17A(a)(1) and (2), and 17A(e) of the Act.

The proposal is consistent with Section 15A(b)(6) in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

The proposed amendment is consistent with section 17A(a)(1) of the Act in that it addresses the findings of Congress relative to the clearance and settlement of securtiies transactions. The proposed amendment is further consistent with the Congressional mandate of section 17A(a)(2) that the Commission facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities. This amendment, which in effect encourages expanded use by current participants of clearance and settlement facilities already in existence, by design will facilitate the implementation of such a national system. The amendment will encourage the use of more efficient depository procedures for confirmation, acknowledgement and settlement of COD transactions. A diminished reliance on less efficient methods would reduce the clerical, interest and other related costs borne by broker/dealers and eventually passed along to their customers.

Under section 17A(e) of the Act, the Commission is directed to end the physical movement of securities certificates in connection with the settlement among brokers and dealers of transactions in securities consummated by means of the mails or any means or instrumentalities of interstate commerce. To the extent that this proposal will promote book entry settlement, it will correspondingly reduce the physical delivery and receipt of securities in connection with the settlement of securities transactions.

(B). Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not result in a burden on competition.

(C). Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Association solicited but received no comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change shoule be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendment, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before September 24, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 27, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-24399 Filed 9-2-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22618, (70-6758)]

Southern Electric Generating Co. et al.; Proposed Increased Financing of Pollution Control Facility Through Revenue Bonds

August 27, 1982.

Alabama Power Company ("Alabama") 600 North 18th Street, Birmingham, Alabama 35203, and Georgia Power Company ("Georgia"), 333 Piedmont Ave. N.E., Atlanta, Georgia 30308, electric utility subsidiaries of The Southern Company, a registered holding company, and Southern Electric Generating Company ("SEGCO"), a subsidiary of Alabama and Georgia, have filed a declaration and amendments thereto pursuant to Sections 9(a), 10 and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder.

SEGCO is the owner of Units 1 through 4 of the Ernest C. Gaston Steam Plant (the "Plant") near Wilsonville, Alabama. Alabama, as agent of SEGCO, operates the Plant pursuant to a contract between SEGCO and Alabama. In order to comply with the State of Alabama's environmental standards, it has been and will be necessary to construct pollution control facilities.

By orders dated February 19, 1975 and May 30, 1975 (HCAR Nos. 18819 and 19015), SEGCO was authorized to enter into an agreement with the Industrial Development Board of the Town of Wilsonville, Alabama (the "Board"), providing for the Board's issuance of its pollution control revenue bonds to finance the Plant's pollution control facilities. SEGCO entered into an Installment Sale Agreement dated as of June 1, 1975 ("Agreement") with the Board. The Agreement provided for the acquisition and completion of the Project by the Board and the issuance by the Board of its Series A Pollution Control Revenue Bonds (the "Original Bonds") in the aggregate amount of $17,400,000 then estimated to be sufficient to cover the Cost of Construction of the Project. The proceeds of the sale of the Original

Bonds were deposited by the Board with the Trustee ("Trustee") under an indenture entered into between the Board and such Trustee (the "Trust Indenture") pursuant to which the Original Bonds were issued and secured. Such proceeds were applied to payment of the Cost of Construction of the Project. The Agreement also provided for the sale of the Project to SEGCO, the payment by SEGCO of the purchase price of the Project in semi-annual installments over a term of years, and the assignment to the Trustee of the Board's interest in, and of the moneys receivable by the Board under the Agreement. The Agreement provided that the purchase price for the Project, including interest thereon, payable by SEGCO was such amount as would be sufficient to pay the principal, premium, and interest on the Original Bonds when due and payable. The Agreement also obligated SEGCO to pay the fees and charges of the Trustee. The Agreement provided that SEGCO could prepay the purchase price, so long as it had not defaulted thereunder.

SEGCO has determined that the total cost of construction of the Project will exceed the proceeds of the Original Bonds. Consequently, SEGCO proposes to enter into an amendment ("First Amendment") to the Agreement providing for the Board's issuance of up to $10 million in Series B Pollution Control Revenue Bonds ("Additional Bonds"). Upon issuance of the Additional Bonds, SEGCO's obligation under the Agreement to make purchase price payments will, as provided in the Agreement, be increased to require additional payments sufficient to pay the principal of, premium and interest on the Additional Bonds as they become due and payable. The Board and the Trustee will enter into a supplement (the "First Supplemental Indenture") to the Trust Indenture providing for the Additional Bonds. It is proposed that the Additional Bonds will mature from one to 30 years from the first day of the month in which they are initially issued and may, if it is deemed advisable for purposes of the marketability of the Additional Bonds, be entitled to the benefit of a mandatory redemption sinking fund calculated to retire a portion of the aggregate principal amount of the issue prior to maturity. The First Supplemental Indenture may provide that the Additional Bonds may be redeemable (a) at any time commencing not later than 10 years from the date of issuance, in whole or in part at the option of SEGCO, initially at a premium of up to 3% of the principal amount and declining by not less than ½ of 1% annually thereafter, and (b) in whole, at the option of SEGCO upon certain adverse occurrences at the principal amount plus accrued interest, but without premium.

As inducement to the Board's entering into the First Amendment, Alabama proposes to enter into an agreement ("First Supplement to the Guaranty Agreement") with the Board to guarantee the full and prompt payment of SEGCO's payment obligations under the First Amendment. This First Supplement to the Guaranty Amendment will be assigned to the Trustee by the Board.

Georgia proposes to agree by letter ("Letter") to reimburse Alabama pro rata (based on Georgia's ownership of outstanding equity securities of SEGCO as of the date of payment is due) for payments made by Alabama under the First Supplement to the Guaranty Agreement. The Letter will provide that the commitment of Georgia thereunder will terminate at any time Georgia ceases to own an interest in SEGCO.

It is contemplated that the Additional Bonds will be sold by the Board pursuant to arrangements with a purchaser or purchasers to be selected. In accordance with the laws of the State of Alabama, the interest rate to be borne by the Additional Bonds will be fixed by the Board. SEGCO will not be party to the underwriting arrangements for the Additional Bonds. Bond counsel will issue an opinion that interest on the Additional Bonds will be exempt from federal income taxation. SEGCO has been advised that the annual interest rates on obligations, the interest on which is tax exempt, recently have been and can be expected at the time of issue of the Additional Bonds, to be approximately three to four percentage points lower than the rates of obligations of like tenor and comparable qualtiy, interest on which is fully subject to federal income tax.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 20, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary

[FR Doc. 82-24396 Filed 9-2-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12619; 812-5047, et al.]

Command Money Fund, et al.; Applications

August 30, 1982.

In the matter of Command Money Fund (formerly Eagle Trust) (812-5047), Command Government Fund (formerly Eagle Government Trust) (812-5081) and Command Tax-Free Fund (formerly Eagle Tax-Free Trust) (812-5046), 100 Gold Street, New York, New York 10292.

Notice is hereby given that Command Money Fund ("Money Fund"), Command Government Fund ("Government Fund"), and Command Tax-Free Fund ("Tax-Free Fund") (collectively, "Applicants" or "Funds"), all open-end, diversified, management investment companies, filed applications on December 17, 1981, and amendments thereto in the case of Money Fund and Government Fund on March 26, 1982 and June 22, 1982, and, in the case of Tax-Free Fund, on March 30, 1982 and August 9, 1982, for orders of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants from Section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicants to use the amortized cost method of valuation of their shares and, in the case of Tax-Free Fund, from Section 12(d)(3) of the Act to the extent necessary to permit it to acquire rights to sell its portfolio securities to brokers or dealers and from Section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit it to value such rights in the manner described in the application. All interested persons are referred to the applications on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the Applicants, their shares will be offered exclusively to participants in the Command financial service program ("Program") which is offered by Bache Halsey Stuart Shields Incorporated ("Bache"). Applicants state

that the Program is designed to provide a customer with use of a conventional Bache securities margin account, a Visa Check/Card Account maintained by Bank One of Columbus, N.A., the Funds, and certain optional features. Applicants further state that under the Program a customer's free credit cash balance is automatically invested on a daily basis into the Fund of his or her choice, although the customer may invest additional amounts in any of the Funds.

Applicants state that each of the funds is a "money market fund" whose objective is to seek high current income, preservation of capital, and maintenance of liquidity. In the case of Tax-Free Fund, the Fund states that such income must be exempt from federal income taxes, and that it will therefore invest only in short-term high quality municipal bonds and notes. Money Fund states that it will invest in a variety of money market instruments of high quality and short maturity, such as government securities, high grade commercial paper, and corporate obligations maturing in one year or less. Government Fund states that it will invest in United States government securities maturing in one year or less, including a variety of securities issued or guaranteed by the United States Treasury, by various agencies of the United States government or by various instrumentalities that have been established or sponsored by the United States government. Money Fund and Government Fund state that they may enter into repurchase agreements, but that any such agreement maturing in more than seven days will be limited to 10% of each Fund's respective total assets, computed together with any other illiquid assets each may hold.

Each of the Applicants states in its prospectus, which is incorporated by reference, that it may purchase portfolio securities on a delayed delivery or when-issued basis. In connection therewith, and in compliance with Investment Company Act Release No. 10666 (April 18, 1979), each of the Applicants further states that its custodian bank will maintain, in a seperate account, portfolio securities or other value in an amount at least equal to such commitments. Similarly, Money Fund states that it may enter into reverse repurchase agreements with banks, but that it will be in compliance with Release No. 10666 since its custodian bank will maintain in a separate account portfolio securities having a value at least equal to the agreed-upon repurchase price.

Government Fund states that it may engage in the lending of its portfolio securities. In connection therewith, Government Fund further states that it will require the borrower to maintain at all times cash or equivalent collateral or to secure a letter of credit in favor of the Government Fund at least equal in value to the securities lent. Government Fund represents that in determining to which broker-dealers, banks, or other financial institutions securities will be loaned, its investment manager will consider all relevant facts and circumstances, including the creditworthiness of such financial institution, and/or the creditworthiness of the bank issuing any letter of credit. Government Fund further represents that it will not enter into any portfolio lending agreement of more than one year's duration; any letter of credit securing a borrower's obligation to return borrowed securities will remain in effect at least as long as the securities remain on loan; and any securities with maturities in excess of one year that the Government Fund may receive as collateral for a particular loan will not become part of such Fund's portfolio either at the time of the loan or in the event that the borrower defaults on its obligation to return the borrowed securities.

Applicants seek orders of the Commission pursuant to Section 6(c) of the Act exempting them from the provisions of Section 2(a)(41) of the Act, and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit their assets to be valued according to the amortized cost valuation method.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors.

Rule 22c–1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a–4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with over 60-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisons of the Act.

In support of the relief requested, Applicants state that, to attract and retain investors, the Funds should offer (i) stability of principal, and (ii) a steady flow of investment income. Applicants state that their management believes that their policies of investing only in instruments having a remaining maturity of one year or less with an average portfolio maturity of 120 days combined with a stable price of $1.00 per share will provide both of these attributes. In addition, the Applicants state that their trustees have determined in good faith that, in light of the characteristics of the Funds as described above, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities will reflect the fair value of such securities.

Each Applicant asserts that its application meets the standards of Section 6(c) of the Act in light of its management policies, and consents to the imposition of the following conditions to any order granting the requested relief:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment manager, the board of trustees of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees of Applicant shall be the following:

(a) Review by the trustees, as they deem appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share based upon available market quotations from Applicant's amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event of a deviation between the two methods of more than ½ of 1 percent, a requirement that the trustees will promptly consider what action, if any, should be initiated.

(c) Where the trustees believe that the difference between the two methods may result in material dilution or other unfair results to investors or existing shareholders, they shall take such action as they deem appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average portfolio maturity of the trust; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its trustees determine present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its trustees.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Tax-Free Fund (hereinafter, "Applicant"), in addition to its above-stated request for relief, also requests an exemptive order pursuant to Section 6(c) of the Act exempting it from Section 12(d)(3) of the Act so that it may improve its portfolio liquidity by assuring same-day settlements on portfolio sales (and thus facilitate the same-day payments of redemption proceeds) through the acquisition of "Stand-by Commitments", also known as "Puts." The Applicant describes as a Stand-by Commitment a right of a fund, when it purchases a municipal obligation for its portfolio from a broker, dealer or other financial institution to sell the same principal amount of such securities back to the seller, at the fund's option, at a specified price.

Section 12(d)(3) of the Act, in relevant part, prohibits any registered investment company from purchasing or otherwise acquiring any security issued by or any other interest in the business of any person who is a broker, a dealer, engaged in the business of underwriting or a registered investment adviser.

The Applicant states that critical to the success of the Program is its ability to meet same-day settlements for the redemption of its shares required to satisfy the debit balance in a customer's Program account. The Applicant further states that to provide for same-day redemption proceeds in federal funds, Program redemptions will be effected at noon New York time, and that the cash needed to meet such redemptions must in turn be obtained the same day from maturing portfolio securities or settlements arranged that day on sales of securities. Therefore, the Applicant states, unless prior arrangements assuring immediate liquidity have been made, the negotiation of same-day settlements on sales of portfolio securities within the brief time available is frequently impossible or may require the Applicant to receive a less favorable execution price on the sale even though the securities sold have a short remaining maturity (*e.g.*, less than 30 days).

Applicant states that in addition to facilitating payment of same-day redemptions in federal funds, it anticipates the need for immediate liquidity in making purchases of when-issued and delayed delivery securities. The Applicant further states that since it is unable to enter into short-term repurchase agreements (because income in respect thereof is taxable) and same day sales of portfolio securities may be disadvantageous to it, and since maintenance of uninvested cash is not an appealing investment strategy, immediate liquidity is an important factor in its ability to make when-issued or delayed delivery purchase commitments. The Applicant represents that its investment policies will permit the acquisition of Stand-by Commitments solely to facilitate portfolio liquidity, and that the acquisition or exercisability of a Stand-by Commitment will not affect the valuation or maturity of its underlying municipal obligations, which will be valued in accordance with its amortized cost order.

Applicant states that the Stand-by Commitments will have the following features: (1) They will be in writing in the form of a master agreement between

[1] To fulfill this condition, each Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of trustees in the exercise of their discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

the issuer of the underlying securities and the Applicant's custodian and the agreement, as well as copies of confirmations of individual issues, will be physically held by Applicant's custodian; (2) they will generally be exercisable by Applicant at any time prior to the underlying security's maturity; (3) they will be entered into only with dealers, banks and broker-dealers who in the investment adviser's opinion present a minimal risk of default; (4) Applicant's right to exercise them will be unconditional and unqualified; (5) although they will not be transferable, municipal obligations purchased subject to such commitments could be sold to a third party at any time, even though the commitment was outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the municipal obligations which are subject to the commitment (excluding any accrued interest which the Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by Applicant. The Applicant further states that since it intends to value its municipal obligations on an amortized cost basis, the amount payable under a Stand-by Commitment will be substantially the same as the value of the underlying security. Applicant submits that there is little risk of an event occurring that would make the amortized cost valuation of its portfolio securities inappropriate. However, the Applicant represents that in the unlikely event that the market or fair value of securities in its portfolio were not substantially equivalent to their amortized cost value, its board of trustees may determine that the securities should be valued on the basis of available market information. Applicant states that it expects to refrain from exercising the Stand-by Commitments to avoid imposing a loss on a dealer and jeopardizing the Applicant's business relationship with that dealer.

According to the application, the Applicant expects that Stand-by Commitments generally will be "paid" for through negotiation with the dealer selling the underlying security and that the amount of such "payment" will be allocated by such dealer in the confirmation of the purchase to be received by the Applicant. As stated by Applicant as a matter of policy, the total amount "paid" for outstanding Stand-by Commitments held in its portfolio will not exceed ½ of 1% of the value of its total assets calculated immediately after any Stand-by Commitment is acquired.

As stated in the application, it will be difficult to evaluate the likelihood of exercise or the potential benefit of a Stand-by Commitment. Therefore, the Applicant states that its board of trustees believes that the value of any such Stand-by Commitment is zero, regardless of whether any direct or indirect consideration is paid. Where the Applicant has paid for a Stand-by Commitment, its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, Applicant states that for purposes of complying with the condition of its amortized cost order that the dollar-weighted average maturity of its portfolio shall not exceed 120 days, the Stand-by Commitments will be valued at zero and that the dollar-weighted average maturity will not be affected by the acquisition of a Stand-by Commitment.

According to Applicant's prospectus, Applicant may apply to the Internal Revenue Service for a ruling, or seek from counsel an opinion, that interest on municipal obligations subject to a Stand-by Commitment will be tax-exempt. In the absence of such a favorable tax ruling or opinion of counsel, Applicant states it will not engage in the purchase of securities subject to Stand-by Commitments.

Applicant asserts that the requested relief is appropriate in the public interest, and consistent with the protection of investors. Applicant submits that the proposed acquisition of Stand-by Commitments will not affect its net asset value per share for purposes of sales and redemptions and will not pose new investment risks, but rather will improve liquidity and ability to pay redemption proceeds. Furthermore, Applicant states that the acquisition of Stand-by Commitments will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business, nor require it to evaluate the credit of dealers in determining its net asset value. Applicant asserts that the relationship between it and the dealer will be comparable to a fully collateralized broker-dealer repurchase agreement or security loan. Finally, Applicant states that it will not acquire Stand-by Commitments to promote reciprocal practices, to encourage the sale of its shares, or to obtain research services.

Notice is hereby given that any interested person may, not later than September 21, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commissioner's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-24404 Filed 9-2-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 22615; 70-6745]

Connecticut Light and Power Co.; Proposal To Issue and Sell First and Refunding First Mortgage Bonds

August 26, 1982.

The Connecticut Light and Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, an electric and gas utility subsidiary of Northeast Utilities ("NU"), a registered holding company, has filed an application-declaration with this Commission pursuant to sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder.

CL&P proposes to issue and sell in one or more series, at competitive bidding, no later than June 30, 1983, up to $170,000,000 principal amount of its First and Refunding Mortgage Bonds ("Bonds") through underwriters who may make a public offering thereof. The interest rate (which shall be a multiple of ⅛ of 1%) and the price, exclusive of accrued interest, to be paid to CL&P

(which shall not be less than 98% nor more than 100% of the principal amount thereof) will be determined by the competitive bidding. The Bonds of each series will have a maturity of not less than five nor more than 30 years. CL&P will publicly invite written proposals for the purchase of each series of the Bonds at least six days prior to entering into any contract or agreement for their sale. With respect to each series, CL&P may change the principal amount of the Bonds originally specified to be offered and sold by giving prospective bidders notice by telephone, confirmed in writing, not less than 24 hours prior to the time of bidding, if the right to do so is reserved in the invitation. In the public invitation for proposals, CL&P may defer specifying the maturity date for the Bonds, and prospective bidders will be notified of the selected maturity date by telephone, confirmed in writing, not less than 24 hours before the time of bidding, if the right to do so is reserved in the invitation.

The Bonds will be issued under the Indenture of Mortgage and Deed of Trust dated as of May 1, 1921, ("Indenture") between CL&P and Bankers Trust Company, Trustee, as supplemented and amended, and as to be further supplemented, in the case of each series of the Bonds, by a Supplemental Indenture setting out the terms of the Bonds. The terms applicable to all Bonds will include a provision that no Bond may be redeemed at the applicable general redemption price prior to a date in 1987 or 1988 (approximately five years after issuance) if such redemption is for the purpose of or in anticipation of refunding such Bond through the use, directly or indirectly, of funds borrowed by CL&P at an effective interest cost to CL&P of less than the effective interest cost to CL&P of the applicable series of Bonds.

CL&P proposes to issue the first series of Bonds pursuant to competitive bids to be received on or about September 28, 1982, in an aggregate principal amount of up to $125,000,000. This series of Bonds will be designated the "First and Refunding —% Mortgage Bonds, Series HH" ("Series HH Bonds"). In addition to the general terms applicable to the Bonds, and subject to the CL&P's right to modify the provisions applicable to redemption of, and the sinking fund for, the Series HH Bonds as described below, the supplemental mortgage indenture with respect to the Series HH Bonds will provide that no more than one percent (1%) in principal amount of Series HH Bonds will be redeemed with the use of sinking and improvement fund money at the applicable special redemption price in any twelve-month period prior to five years from the first day of the month in which the Series HH Bonds are issued.

The Hartford Electric Light Company ("HELCO"), another subsidiary of NU, and The Connecticut Gas Company ("Conn Gas"), a subsidiary of CL&P, were merged into CL&P effective on close of business on June 30, 1982.

The net proceeds from the issue and sale of the Bonds will be used to repay in part short-term borrowings of CL&P, HELCO, and Conn Gas, which were incurred to finance their respective construction programs, to repay in part amounts borrowed under a construction trust financing, to refinance an $85 million first mortgage bond issue of CL&P that matured on February 1, 1982, and for general working capital purposes. As of August 9, 1982, CL&P's short-term borrowings were approximately $92,650,000 and its borrowings under the construction trust financing were approximately $69,320,000.

CL&P believes that the sale of one or more series of the Bonds may require the assistance of underwriters if market conditions at the time of the offering of the Bonds are unfavorable. Accordingly, CL&P may amend this application-declaration to seek an exemption from Rule 50 so that it may offer one or more series of the Bonds through a negotiated public offering. The price therefor and the underwriters' compensation would, if authorized by the Commission, be determined by negotiation with underwriters for the Bonds.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 17, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disrupted. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-24400 Filed 9-2-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-11807]

Horn & Hardart Co.; Application and Opportunity for Hearing

August 27, 1982.

Notice is hereby given that The Horn & Hardart Company, a Nevada corporation (the "Applicant"), has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the successor trusteeship of J. Henry Schroder Bank & Trust Company ("Schroder") under an indenture dated as of October 15, 1980, as amended and supplemented by a First Supplemental Indenture dated as of October 24, 1980, heretofore qualified under the Act, and a new successor trusteeship under an indenture dated as of February 26, 1981, which is not qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from acting as trustee under any of the indentures.

Section 310(b) of the Act provides, in part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety (90) days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of this section provides, in effect, with certain exceptions, that trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same issuer. However, under clause (ii) of subsection (1), there shall be excluded from the operation of this provision any other indenture or indentures under which other securities of such issuer are outstanding, if the issuer shall have sustained the burden of proving, an application to the Commission and after opportunity for hearing, that trusteeship under the qualified indenture and such other 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 such trustee from acting as trustee under any of such indentures.

The Applicant alleges that:

1. The Applicant has outstanding as of July 12, 1982, $35,000,000 of its 11¼% Convertible Subordinated Debentured due October 15, 2000 (the "Debentures") issued under an Indenture dated as of October 15, 1980 (the "Original 1980 Indenture") between the Horn & Hardart Company, a New York corporation ("Horn & Hardart New York") and Chemical Bank ("Chemical") which was qualified under the Act. The Debentures were registered under the Securities Act of 1933.

2. On October 24, 1980, Horn & Hardart New York was merged into the Applicant and by a First Supplemental Indenture dated as of October 24, 1980, the applicant assumed the due and punctual payment of the principal of and the premium, if any, and the interest on, all the outstanding Debentures and the performance and observance of each and every covenant and condition of the Original 1980 Indenture on the part of Horn & Hardart New York was theretofore bound liable (the Original 1980 Indenture as so supplemented being hereinafter referred to as the "1980 Indenture").

3. The applicant had outstanding, as of July 12, 1982, $1,737,440 principal amount of its 10% Convertible subordinated Notes due 1986 (the "Notes") issued under an Indenture dated as of February 26, 1981 (the "1981 Indenture") between the Applicant and Chemical which was not qualified under the Act.

4. On July 7, 1982 Schroder was appointed successor trustee under the 1980 Indenture.

5. The Applicant proposes to appoint Schroder as the successor trustee under the 1981 Indenture.

6. No default has at any time existed under either the 1980 Indenture or the 1981 Indenture. The Applicant's obligations in respect of the Debentures and the Notes are wholly unsecured and rank *pari passu inter se*. Aside from differences between these two Indentures as to amounts, denominations, interest rates, maturity dates, redemption dates, redemption powers and conversion dates, the provision of said Indentures, including the covenants of the Company which apply to the future, are substantially identical.

7. Such differences as exist between the 1980 Indenture and the 1981 Indenture are not likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from acting as trustee under the 1980 Indenture and the 1981 Indenture.

The Company has waived notice of hearing and any and all rights to a hearing and to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matter of fact and law asserted, all persons are referred to said application which is on file in the office of the Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after September 27, 1982, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939. Any interested persons may, not later than September 27, 1982 at 5:30 p.m., Eastern Daylight Time, in writing, submit to the Commission, his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

By the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-24401 Filed 9-2-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 22617; 70-6756]

National Fuel Gas Co.; Proposals To Increase Maximum Allowable Unsecured Debt; Order Authorizing Solicitation of Shareholder Proxies

August 27, 1982.

National Fuel Gas Company ("National"), 30 Rockefeller Plaza, New York, New York 10112, a registered holding company, has filed a declaration, and amendment thereto, pursuant to Sections 6(a), 7 and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and rules thereunder.

National proposes to hold a special shareholders meeting to present two proposals relating to limitations on the issuance or assumption of unsecured debt contained in its Restated Certificate of Incorporation ("Certificate"). The Certificate provides that, except with the consent of the holders of a majority of the preferred stock then outstanding, National may not issue or assume, nor permit any subsidiary to issue or assume, any unsecured debt, if after giving effect to such issue or assumption, (a) unsecured debt of National and its subsidiaries would exceed 20 percent of the aggregate of all existing secured debt (including debentures) and the capital stock, premiums thereon, and surplus of National and its subsidiaries consolidated or (b) unsecured debt of National and its subsidiaries having maturities of less than ten years would exceed 10 percent of such amount. By prior shareholder approval, the 10 percent limitation was waived for a period of 5 years effective May 29, 1980 (HCAR No. 21585, May 21, 1980). As of August 31, 1982, the outstanding consolidated unsecured debt and the amount equal to the 20 percent maximum are projected to be approximately $81,300,000 and $97,911,000, respectively.

National proposes ("Proposal One") to request authority from the holders of its preferred stock to continue the waiver of the 10 percent unsecured debt limitation and to substitute a 25 percent limitation for the current 20 percent limitation. If approved, the waiver and substitution will be effective for a five year period. In support of its request National cities a state order, currently under appeal, requiring its utility subsidiary to refund in excess of $14,000,000 relating to gas purchases. A final order, and subsequent refund, may result in after-tax losses of approximately $7.5 million in fiscal year 1983 or 1984. National would thus be precluded from obtaining long-term financing for at least one year because of indenture interest-coverage requirements. Increased short-term unsecured debt would be required to finance operations as well as the refund.

The second proposal ("Proposal Two") addresses an ongoing problem related to accounts receivable and the time lag between customer deliveries of gas and collections of payment therefor. "Accounts receivable" refers to the aggregate of billed but uncollected charges for delivered gas, net of reserves for bad debts, and charges for delivered but unbilled gas, each calculated at the end of the particular calendar month. National asserts that rapidly rising costs for natural gas and increased accounts receivable in peak-usage months have created a short-term cash flow condition where greater ability to arrange short-term, unsecured financing to meet peak needs is required. Proposal Two, therefore,

would amend the Certificate to exclude from the definition of unsecured debt, and thus the limitations on the issue or assumption thereof, an amount of unsecured debt having maturities of not more than twelve months, equal to the defference between (a) the highest amount of accounts receivable within the twelve months immediately preceding the calendar month in which the issue or assumption of additional unsecured debt would be made and (b) the average amount of accounts receivable for the six consecutive calendar month period from June through November for the immediately preceding year. National believes that the exclusion is necessary and appropriate because the short-term debt is incurred to finance marketable assets which will, in turn, produce revenues sufficient to retire the associated indebtedness.

National intends to submit the proposals to the holders of its preferred and common stock at a special meeting on October 22, 1982. In connection therewith National requests authority to solicit proxies from its shareholders. By terms of the Certificate, adoption of Proposal One requires the affirmative vote of a majority of the total number of outstanding shares of preferred stock voting as a class. No action of the common shareholders is required for adoption of Proposal One. Adoption of Proposal Two requires the affirmative vote of two-thirds of the total number of outstanding shares of preferred stock voting as a class and a majority of the votes cast by the holders of outstanding shares of common stock entitled to vote thereon.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 22, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

It appearing to the Commission that the declaration, as amended, insofar as it relates to the solicitation of proxies of National's shareholders should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered that the declaration, as amended, insofar as it relates to the proposed solicitation of proxies of National's shareholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 promulgated under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-24402 Filed 9-2-82; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 19023; SR-PSE-82-10]

Pacific Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

August 27, 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 27, 1982, the Pacific Stock Exchange, Inc. ("PSE"), 618 South Spring Street, Los Angeles, CA 90014, 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 PSE proposes to extend for ninety days, until November 24, 1982, its pilot program relating to the appointment and evaluation of PSE specialists and the creation of new PSE specialist posts.[1] On May 28, 1982, PSE requested and received approval for a ninety day extension, until August 26, 1982, of this pilot program in order to give the exchange the opportunity to file with the Commission under Rule 19b-4 amendments to the program which had been approved by the PSE Board.[2] During that 90 day period the exchange has informally discussed these proposed amendments with the Commission. The exchange indicates that it is currently reviewing the Commission's comments and suggestions regarding these proposed amendments, and states that it needs an additional ninety day extension in order that it might complete this review and file the proposed amendments with the Commission prior to termination of the pilot program. The PSE has stated that the statutory basis of the proposed rule change is Section 6(b) of the Act, in general, and Sections 6(b)(5) and 6(b)(7), in particular.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change on or before September 24, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-PSE-82-10.

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 Fifth 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.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the PSE pilot program terminated on August 26, 1982, and an extension is necessary to allow the PSE an opportunity to file amendments to the pilot program under Rule 19b-4. The Commission believes it is appropriate to extend the pilot program pending submission by the PSE of such amendments.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

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[1] On May 27, 1981, the Commission approved a one-year PSE pilot program with respect to the appointment and evaluation of specialists and the creation of new specialists posts. Securities Exchange Act Release No. 17818, May 27, 1981, 46 FR 30016, June 4, 1981.

[2] Securities Exchange Act Release No. 18776, May 28, 1982, 47 FR 24901, June 8, 1982.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-24403 Filed 9-2-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 82-161]

Andrade and Tecate, California, Customs Ports of Entry; Change in Hours of Service

AGENCY: Customs Service, Treasury.

ACTION: Notice of change in hours of service.

SUMMARY: This notice announces a change in the hours of service at the Customs ports of entry at Andrade and Tecate, California. Currently, the hours of operation are 6:00 a.m. to midnight at Andrade and 7:00 a.m. to midnight at Tecate. The new hours of service at both ports will be 6:00 a.m. to 10:00 p.m. daily. The change will enable Customs to obtain more efficient use of its personnel, facilities, and resources in the area.

EFFECTIVE DATE: The new hours of service at Andrade and Tecate will become effective October 4, 1982.

FOR FURTHER INFORMATION CONTACT: Renee DeAtley, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C., 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

Section 101.6, Customs Regulations (19 CFR 101.6), provides that each Customs office shall be open for the transaction of Customs business between the hours of 8:30 a.m. and 5:00 p.m. on all days of the year except Saturdays, Sundays, and national holidays. It also provides that services performed outside a Customs office generally shall be furnished between the hours of 8:00 a.m. and 5:00 p.m. Many offices provide service during hours in addition to those specified in the regulations.

The Customs ports of entry at Andrade and Tecate, California, located on the U.S.-Mexican border, in the San Diego Customs district, are open from 6:00 a.m. to midnight and 7:00 a.m. to midnight, respectively. However, because the volume of traffic passing through each port between the hours of 10:00 p.m. and midnight (an average of 12 vehicles) does not warrant providing regular service during these hours, Customs officials in that area have recommended that the hours of service at these ports be changed so that both are open from 6:00 a.m. to 10:00 p.m. The reasons for the recommendation are that closing both ports at 10:00 p.m. will permit better use of Customs manpower and reduce administrative expenses.

Because opening Tecate at 6:00 a.m. will provide additional service for approximately 100 local communter vehicles it also has been recommended that that port be opened one hour earlier.

Based upon the recommendations, by T.D. 81-279, published in the **Federal Register** on November 6, 1981 (46 FR 55174), Customs announced that, effective December 7, 1981, the hours of service at these two ports were being changed to 6:00 a.m. to 10:00 p.m. daily. However, soon after that announcement Customs became aware of considerable public interest in this matter. Accordingly, by T.D. 82-7, published in the **Federal Register** on January 8, 1982 (47 FR 1065), 1065), T.D. 81-279 was revoked, and comments were invited from the public on the proposal to change the hours of service at Andrade and Tecate to 6:00 a.m. to 10:00 p.m. daily.

Discussion of Comments

No comments were received with respect to the change in hours at Andrade.

A number of comments were received concerning the change in hours at Tecate, several of which were favorable and others which were unfavorable.

The commenters in favor of the change stated that the earlier opening time would be helpful to the public in that it would benefit workers and school children. These commenters contend that the change in closing time would not work a hardship on the public since most or all of the area businesses are closed by 10:00 p.m.

The commenters against the change maintain that there will be business losses in the area, including San Diego.

Customs recognizes that many Mexican residents from the Tecate, Mexico, area shop in San Diego. We note, however, that the Customs port of entry of San Ysidro, which is open 24 hours, is 17 miles from San Diego. The trip from San Diego to Tecate, Mexico, via the San Ysidro port, is the same length as that same trip via the Tecate port. We further note that we did not receive any comments from San Diego businesses.

After consideration of all of the comments, Customs has decided to change the hours of service at Andrade and Tecate, as proposed. It is anticipated that Governmental savings will far outweigh any inconvenience resulting from the change. Both ports will remain open beyond the normal business hours set forth in the regulations, and area businesses requiring port service after hours may contact local Customs officials for service which would be provided on a reimbursable basis.

Dated: August 25, 1982.

Alfred R. De Angelus,

Acting Commissioner of Customs.

[FR Doc. 82-24249 Filed 9-2-82; 8:45 am]

BILLING CODE 4820-02-M

Office of the Secretary

Senior Executive Service (SES) Bonuses

ACTION: Notice of Schedule for Awarding SES Bonuses.

SUMMARY: This notice announces the schedule for awarding SES bonuses (performance awards) in the Department of the Treasury.

FOR FURTHER INFORMATION CONTACT: D. S. Burckman, Director of Personnel, Room 2426, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220; Telephone: 566-2701.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to guidance from the Director of the Office of Personnel Management, dated July 21, 1980. The Department of the Treasury is scheduled to award bonuses to eligible career senior executives for the performance appraisal period ending September 30, 1982, with payouts by December 31, 1982. Such bonuses are authorized by section 407(a) of the Civil Service Reform Act of 1978 (Pub. L. 95-454), codified in 5 U.S.C. 5384, and by section 303 of the Supplemental Appropriations and Rescission Act, 1980 (Pub. L. 96-304).

This notice does not meet the Department's criteria for significant regulations.

Cora P. Beebe,

Assistant Secretary (Administration).

[FR Doc. 82-24228 Filed 9-2-82; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 172
Friday, September 3, 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

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 12:00 noon on Tuesday, August 31, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Western National Bank, Santa Ana, California, which was closed by the Comptroller of the Currency on Friday, August 27, 1982; (2) accept the bid for the transaction submitted by Commonwealth Bank, Hawthorne, California; (3) approve the application of Commonwealth Bank, Hawthorne, California, for consent to purchase the assets of and assume the liability to pay deposits made in Western National Bank, Santa Ana, California, and for consent to establish the sole office of Western National Bank as a branch of the resultant bank; and (4) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that the Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 30, 1982.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[S-1263-82 Filed 9-1-82; 12:47 pm]

BILLING CODE 6714-01-M

2

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 3:30 p.m., Tuesday, September 14, 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:
a. Certain braiding machines (Docket No. 863).
5. Investigation 731-TA-101 (Preliminary) (Griege Polyester/Cotton Printcloth from the People's Republic of China)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1259-82 Filed 8-31-82; 4:50 pm]

BILLING CODE 7020-02-M

3

PAROLE COMMISSION

[2P0401]

TIME AND DATE: 2 p.m.-3:30 p.m., Thursday, September 9, 1982.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, and over a conference telephone circuit.

STATUS: Open.

MATTERS:

1. Consideration of a proposed budget request submitted by the Chairman for f/y 1984.

2. Discussion of various aspects of the supplemental budget request for f/y 1982, and the budget for f/y 1983.

CONTACT PERSON FOR MORE INFORMATION: James R. Draley, Program Management Officer, U.S. Parole Commission, 492-5957.

[S-1257-82 Filed 8-31-82; 4:22 pm]

BILLING CODE 4410-01-M

4

PAROLE COMMISSION

National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland, Headquarters).

TIME AND DATE: 10 a.m., Monday, September 13, 1982.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492-5987.

[S-1264-82 Filed 9-1-82; 2:37 pm]

BILLING CODE 4410-01-M

5

POSTAL SERVICE

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 2:00 p.m. on Thursday, September 9, and 8:30 a.m. on Friday, September 10, 1982, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. As indicated in the following paragraphs, the September 9 meeting is closed to public observation. The September 10 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should

be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

At its meeting on August 2, 1982, the Board voted to close to public observation a portion of its meeting scheduled for September 9, 1982.

This portion of the meeting to be closed will consist of further consideration of the July 9, 1982, decision of the U.S. Court of Appeals for the Second Circuit in *Time, Inc. et al.* v. *United States Postal Service* concerning the most recent general ratemaking proceeding.

At its meeting of July 6, 1982, the Board voted to close a portion of its September meeting to continue its discussion of Postal Service strategic planning.

Agenda

Thursday Afternoon Session (Closed)

1. Further Consideration of Court Decision on Rates
2. Strategic Planning

Friday Morning Session (Open)

1. Minutes of the Previous Meeting
2. Remarks of the Postmaster General
   (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Adjustment in Compensation of Certain Postal Excecutives
   (The Board will consider a recommendation by the Postmaster General regarding the compensation of two officers of the Postal Service, which requires approval of the Board under the Board's Bylaws.)
4. USPS Tentative Budget Program
   (Mr. Finch, Senior Assistant Postmaster General, Finance Group, will discuss the Postal Service's tentative budget program for fiscal year 1984 with the Board.)
5. Postal Rate Commission Budget
   (Under the Postal Reorganization Act, the Postal Rate Commission periodically prepares and submits to the Postal Service a budget of the Commission's expenses. The budget is to be considered approved as submitted if the Governors of the Postal Service do not act to include it by unanimous written decision. This matter is included on the agenda to give the Governors an opportunity to act on the Commission's budget.)
6. Status for Congressional Revenue Forgone Appropriations for fiscal year 1982.
   (Mr. Finch and Mr. Horgan will brief the Board on the status of fiscal year 1983 appropriations legislation so that the Governors may consider possible action under 39 U.S.C. 3627 to adjust the rates charged for preferred categories of mail if there were to be a failure of appropriations.
7. Report by the Chairman of the Committee on Electronic Communications.
   (Mr. Sullivan will report on the current status of E–COM.)
8. Capital Investment Projects.
   a. Option to Purchase Additional Flats Sorting Machines
   (The Board will consider the option included in its approval in June, 1981, to purchase additional flats sorting machines.)
   b. STARS
   (Mr. Finch will present a proposal for approval of a capital investment for a Source Time and Attendance Reporting System.)
9. Policy on Preservation of Historic Buildings.
   (Mr. Biglin will brief the Board on the Postal Service's policy on historic preservation.)

Louis A. Cox,

Secretary.

[S–1260–82 Filed 9–1–82; 9:43 am]

BILLING CODE 7710–12–M

6

POSTAL SERVICE

The Audit Committee of the Board of Governors of the United States Postal Service, pursuant to the Bylaws of the Board (39 CFR 7.1(a) and 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 8:00 a.m. on Thursday, September 9, and at 1:00 p.m. on Friday, September 10, 1982, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. Pursuant to section 552b(c)(9)(B) of title 5, United States Code, and section 7.3(i) of title 39, Code of Federal Regulations, the Committee has determined that the meeting should be closed to public observation. The only agenda item for the meeting entails a discussion of the selection of an independent certified public accounting firm to certify the accuracy of Postal Service financial statements as required by 39 U.S.C. 2008(e), the selection of such firm being one of the matters that is reserved for decision by the Board of Governors under section 3.4 of the Bylaws of the Board (39 CFR 3.4). Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

Louis A. Cox,

Secretary.

[S–1261–82 Filed 9–1–82; 9:43 am]

BILLING CODE 7710–12–M

7

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

DATE: Thursday, September 23, 1982.

TIME: 10 a.m.–1 p.m.

PLACE: Cannon House Office Building, Room 304.

PURPOSE: General meeting to disucss FY '82 and FY '83 Budget.

FOR FURTHER INFORMATION CONTACT: Richard T. Jerue, Executive Director (202) 472–9023.

This meeting was called by the Commission Chairman, Mr. David R. Jones.

Submitted the 1st day of September, 1982.

Richard T. Jerue,

Executive Director.

[S–1258–82 Filed 8–31–82; 4:33 p.m.]

BILLING CODE 6820–BC–M

8

U.S. RAILWAY ASSOCIATION

DATE AND TIME: September 9, 1982, 2 p.m.

PLACE: Board Room, Room 2–500, fifth floor, 955 L'Enfant Plaza North, S.W., Washington, D.C.

STATUS: The first portion of the meeting will be closed to the public; the second portion will be open.

MATTERS TO BE CONSIDERED BY THE USRA BOARD OF DIRECTORS AND ADVISORY BOARD:

Portion Closed to the Public (2 p.m.):

1. Internal Personal Matters.
2. Litigation Report.
3. Review of Conrail Confidential and Proprietary Financial Information.
4. Discussion of the Status of Delaware and Hudson.

Portion Open to the Public (2:30 p.m.):

5. Approval of Minutes of June 24, 1982 Meeting.
6. Consideration of Section 211(h) Loan Forgiveness.
7. Consideration of Delaware & Hudson Request for Waiver to Sell Mortgaged Property.
8. Election of Officers.
9. Conrail Monitoring Indicators.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202) 488–8777, ext. 503.

[S–1262–82 Filed 9–1–82; 9:52 am]

BILLING CODE 8240–01–M

federal register

Friday
September 3, 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.

Alabama: AL82-1014	Feb 19, 1982.
Alaska: AK81-4136	July 24, 1981.
Arkansas:	
AR82-4006	Feb. 12, 1982.
AR82-4036; AR82-4037	July 9, 1982.
AR82-4038; AR82-4039	July 23, 1982.
California: CA82-5112	July 16, 1982.
Colorado: CO62-5104	Feb. 26, 1982.
Connecticut: CT81-3032	May 15, 1981.
Maryland: MD81-3031	May 15, 1981.
Nebraska: NE82-4004	Jan. 29, 1982.
Pennsylvania:	
PA81-3027	July 17, 1981.
PA81-3029	July 10, 1981.
PA81-3041	July 6, 1981.

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 decisions numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL81-1294 (AL82-1039)	Sept. 25, 1981.
California: CA81-5143 (CA82-5122)	Aug. 21, 1981.
New York: NY81-3003 (NY82-3025)	Jan. 23, 1981.
Pennsylvania: PA80-3071 (PA82-3026)	Oct. 24, 1980.
Utah: UT81-5156 (UT82-5121)	Oct. 2, 1981.

Please note that we are changing the format for Federal Register wage decisions to coincide with the provisions

of All Agency Memorandum No. 132 dated January 29, 1980, which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedure is being phased in gradually.

Signed at Washington, D.C. this 27th day of August 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION #AR82-4006-Mod. #3
47FR6547-February 12, 1982
Sebastian, Crawford and Washington Counties, Arkansas

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
SEBASTIAN AND CRAWFORD COS.:		
Bricklayers-Stonemasons	$13.10	1.54
Cement masons	12.00	.63
Ironworkers	14.60	2.37
PAINTERS:		
Brush	8.65	
Roller work, sheetrock, finishing by machinery	9.15	
Swing stage work	9.15	
Spray painting	9.65	
Sandblasting-steam-cleaning	9.65	

DECISION #AR82-4036-Mod. #1
47FR29974-July 9, 1982
Pulaski County, Arkansas

CHANGE:		
CARPENTERS:		
Carpenters	11.80	1.46
Millwrights-Piledrivermen	12.30	1.46
CEMENT MASONS	12.00	.63
BRICKLAYERS-STONEMASONS	12.25	1.44
IRONWORKERS	12.80	2.21
PLASTERERS	12.50	.64

DECISION #AR82-4037-Mod.#1
47FR29975-July 9, 1982
Jefferson County, Arkansas

CHANGE:		
BRICKLAYERS-Stonemasons	12.25	1.44
CARPENTERS:		
Carpenters	11.80	1.46
Millwrights-Piledrivermen	12.30	1.46
CEMENT MASONS	12.00	.63
IRONWORKERS	12.80	2.21
PLASTERERS	12.50	.64
PLUMBERS	13.97	1.98

DECISION #AR82-4038-Mod. #1
47FR32032-July 23, 1982
Union and Ouachita Counties, Arkansas

CHANGE:		
CARPENTERS:		
Carpenters	11.80	1.46
Millwrights-Piledrivermen	12.30	1.46

DECISION #AR82-4038-Mod. #1 (cont'd)

CHANGE:		
CEMENT MASONS	$12.00	.63
PLASTERERS	12.50	.64

DECISION #AR82-4039-Mod.#1
47FR32033=July 23, 1982
Garland, Clark and Hot Springs Counties, Arkansas

CHANGE:		
BRICKLAYERS-STONEMASONS:		
Hot Springs County	$12.80	.79
CARPENTERS:		
Carpenters	11.80	1.46
Millwrights-Piledrivermen	12.30	1.46
CEMENT MASONS	12.00	.63
ELECTRICIANS:		
Electricians	13.17	3⅛%+1.80
Cable splicers	13.295	3⅛%+1.80
IRONWORKERS	12.80	2.21
LINE CONSTRUCTION:		
Linemen	13.17	3⅛%+1.80
Cable splicers	13.295	3⅛%+1.80
PLASTERERS	12.50	.64
PLUMBERS-PIPEFITTERS:		
Within 10 miles of Garland County Courthouse	13.07	1.98
10 miles and over from Garland County Courthouse	13.97	1.98

DECISION NO. AL82-1014 - Mod. #1 - (47 FR 8496 - February 19, 1982)
MONTGOMERY COUNTY, ALABAMA
Building Construction:

Change:		
Glaziers	8.49	

DECISION NO. CA82-5112 - Mod. #3
(47 FR 31154 - July 16, 1982)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humdoldt, Kings, Lake, Lassne, 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, Solnao, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$24.40	$5.36
Brick Tenders:		
Area 1	14.67	4.85
Cement Masons	18.55	3.68
Drywall Installers	20.10	6.25
Electricians:		
Area 13:		
Electricians	22.00	6.73
Cable Splicers	24.75	6.73
Marble Setters	18.85	5.75
Marble, Tile Finishers:		
Area 1	18.85	5.75
Millwrights:		
Area 1	18.45	7.225
Plasterers' Tenders:		
Area 9	15.50	5.85
Area 10	15.50	5.85
Painters:		
Area 8:		
Brush	20.19	4.49
Spray	20.69	4.49
Spray (coating) and Paperhangers	21.19	4.49
Taper (paint)	21.60	4.49
Plasterers:		
Area 4	18.28	3.69
Area 7	20.71	3.11
Sheet Metal Workers:		
Area 1	$25.73	$5.14
Area 4	25.73	5.29
Area 6	17.80	3.76
Area 7	26.18	4.74
Area 9	25.06	5.42
Soft Floor Layers:		
Area 5	17.21	5.64
Sprinkler Fitters:		
Area 1	25.12	5.89
Add:		
Lathers:		
Area 11:		
Napa and Solano	20.88	2.63
Piledrivermen	18.56	6.43

DECISION NO. CO82-5104 - Mod. #9
(47 FR 8497 - February 26, 1982)
El Paso County, Colorado

	Basic Hourly Rates	Fringe Benefits
Omit:		
Painters as originally issued		
Add:		
Painters:		
Brush and Roll; Hardwood Finishers; Sandblast, Pot Tenders	$12.19	$1.88
Drywall Finishers (hand)	12.44	1.88
Spray; Swing Stage and Chair; Sandblast (exterior); Hazardous work; Paperhangers; Drywall Finishers (tool)	12.79	1.88
Sandblast (interior); Steeplejack	14.11	1.88

DECISION NO. MD81-3031 - MOD. #3 (46 FR 27051 - May 15, 1981) ALLEGANY AND GARRETT COUNTIES, MARYLAND	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS		
Allegany and Garrett (East of Rt. 219 at the Lake)	14.20	2.20+ 3.75%
Garrett County (West of Rt. 219 at the Lake)	14.60	2.20+ 3.75%
IRONWORKERS	14.12	2.90
LINEMEN-Allegany and Garrett (East of Rt. 219 at the Lake)		
Lineman	14.20	2.20+ 3.75%
Equipment Operator	13.49	2.20+ 3.75%
Truck Driver, Groundman	9.23	2.20+ 3.75%
LINEMEN-Garrett (West of Rt. 219 at the Lake)		
Lineman	14.60	2.20+ 3.75%
Equipment Operator	13.89	2.20+ 3.75%
Truck Driver; Groundman	9.63	2.20+ 3.75%
PAINTERS:		
Brush, rollers, wall covering hangers & installation of seamless type floors	10.45	.50
Spray, sandblasting & use of flame burning & power tools	11.45	.50
Toxic material-brush & roller	10.95	.50
Toxic material-spray	11.95	.50
PLUMBERS & STEAMFITTERS	13.70	2.43
SPRINKLER FITTERS	16.17	2.83

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS		
GROUP I	13.83	2.40
Hourly additional pay for long boom cranes (including jibs), pile driver machines with leads:		
130' to 169' plus $ .40		
170' to 209' plus $ .60		
210' to 249' plus $ .80		
250' to 299' plus $1.00		
300' and over plus $1.25		
GROUP II	13.31	2.40
GROUP III & IV	12.89	2.40
GROUP V	12.45	2.40
GROUP VI	12.01	2.40
GROUP VII	14.33	2.40

DECISION NO. NE82-4004 - MOD. #1 (47 FR 4468 - January 29, 1982) Lancaster Nebraska	Basic Hourly Rates	Fringe Benefits
Add:		
Asbestos Workers	16.68	3.06

DECISION NO. AK81-5136- Mod. #5 (46 FR 38243 - July 24, 1981) Statewide, Alaska	Basic Hourly Rates	Fringe Benefits
Omit:		
Cement Masons:		
Residential (Area 1)		
Electricians:		
Residential (Area 1)		
Painters:		
Residential (Area 1)		
Laborers:		
Residential (Area 1)		

DECISION NO. PA81-3027 MOD. NO. 8 (46 FR 37212 - July 17, 1981) Franklin County, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Laborers	$10.40	20%

DECISION NO. PA81-3029 MOD. NO. 6 (46 FR 35891 - July 10, 1981) Blair County, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Cement Masons	13.83	17%
Laborers	10.66	20%
Plumbers & Pipefitters	15.48	3.14

DECISION NO. PA81-3041 MOD. NO. 8 (46 FR 34934 - July 6, 1981) Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Fayette, Forest, Franklin, Fulton,, Greene, Huntingdon, Indiana, Jefferson, Mercer, Lawrence, McKean, Mifflin, Potter, Somerset, Venango, Warren, Washington & Westmoreland Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Ironworkers:		
Reinforcing		
Zone 1	11.26	2.40
LANDSCAPING:		
ZONE 1		
CLASS 1		
Landscape laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	$9.57	22%
CLASS 2		
Landscape tractor operator to operate small industrial rubber tire tractor equipped with front end loader and back hoe attachment used for the sole purpose of landscape work including soil spreading, but not for heavy and highway work	9.99	22%
ZONE 2		
CLASS 1		
Landscape laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	11.50	17%
LINE CONSTRUCTION		
ZONE 1		
Linemen	17.17	.60+ 3-3/8%
Winch truck operator	12.01	.60+ 3-3/8%
Truck Driver	11.16	.60+ 3-3/8%
Groundman	10.30	.60+ 3-3/8%

DECISION NO. CT81-3032 - MOD. #17 - (46 FR 27040 May 15, 1981) HARTFORD, MIDDLESEX, NEW HAVEN, NEW LONDON and TOLLAND COUNTIES, CONN.	Basic Hourly Rates	Fringe Benefits
Change:		
Plumbers:		
Area 1	17.86	3.79

SUPERSEDEAS DECISION

STATE: ALABAMA COUNTIES: JEFFERSON,SHELBY, ST. CLAIR
DECISION NO.: AL82-1039 DATE: DATE OF PUBLICATION
Supersedes Decision No.: AL81-1294 dated September 25, 1981 in 46 FR 47382.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION Projects (does not include residential construction consisting of single family homes and apartments up to and including 4 (four) stories).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$12.38	$1.52
CARPENTERS	11.67	1.29
CEMENT MASONS	8.35	
ELECTRICIANS	13.45	2.03
GLAZIERS	11.04	2.06a
IRONWORKERS	13.48	1.64
PAINTERS	12.35	.70
PLASTERERS	11.31	.70
PLUMBERS & PIPEFITTERS	15.70	1.82
ROOFERS	11.10	.55
SHEET METAL WORKERS	14.67	1.96
SPRINKLER FITTERS	14.57	2.83
TILE SETTERS	11.00	.60
TRUCK DRIVERS	6.06	
WELDERS-Rate for Craft		
LABORERS:		
GROUP A	8.26	1.03
GROUP B	8.19	1.03
GROUP C	8.13	1.03
GROUP D	8.06	1.03
GROUP E	8.56	1.03
GROUP F	9.11	1.03
GROUP G	8.98	1.03
LABORERS cont'd:		
GROUP H	$ 9.04	$ 1.03
GROUP I	8.93	1.03
GROUP J	8.75	1.03
GROUP K	9.90	1.03
POWER EQUIPMENT OPERATORS:		
GROUP A	12.05	1.20
GROUP B	11.40	1.20
GROUP C	10.09	1.20
GROUP D	12.92	1.20
GROUP E	12.04	1.20
GROUP F	10.25	1.20

FOOTNOTE:
a. Paid Holidays include New Year's Day,Independence Day,Labor Day,Thanksgiving Day,Friday after Thanksgiving Day, and Christmas Day.

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)).

POWER EQUIPMENT OPERATORS:

Classification Definitions

GROUP A - Asphalt plant,boom tractor,bulldozer,cableways,core driller, compressors (2 or more),crane-derrick-dragline,dinky locomotive,dredges, forklift,front end loader,gradall,heavy-duty mechanic,hoist (1 drum or more),mixers,push tractor,scrapers,shovels,trenching machine, (and all similar equipment),winch trucks,motor-graders,concrete pump,piledriver, rotary drill.

GROUP B - Air compressor(over 125),asphalt spreaders,blade graders,(pull type),boat operator,conveyor (2 or more up to 4),crawler tractor,distributors, (bituminous surface),farm tractors,finishing machine,pumps over 4 inches, rollers,welding machine (4 or more).

GROUP C - Air Compressor(125 & under),oilers-fireman,conveyor (1 tended by oiler),pumps (under 4 inches),welding machines (3 or under).

STEEL ERECTION-

GROUP D - Crane,dragline,derricks,hoist,piledrivers,winch truck,forklift, tower cranes,climbing cranes,cherry picker,mechanics,locomotives,tug boat.

GROUP E - Tractors,welding machine,gas or diesel driven welding machine (4 or more), air compressors over 125 (2 or less), power generating units (gas or diesel).

GROUP F - Gas or diesel driven welding machine (3 or less),air compressor 125 and under (2 or less),oiler,fireman,small boat.

LABORERS:

Classification Definitions:

Group A - Air or electrical tool operators and asphalt rakers

Group B - Vibrator operators, chain saw operators, operators of mechanical equipment which replaces wheelbarrows or buggies, power mowers, mortar mixers, pipe layers, concrete and clay and muckers

Group C - Plasterers' tenders and hod carriers

Group D - Mason tenders and building laborers

Group E - Burners on demolition, wagon drill operators and tunnel laborers

Group F - Powderman

Group G - Caisson-driller (10' diameter)

Group H - Tunnel miner

Group I - Pneumatic concrete gun operator and nozzleman

Group J - Chuck Tender

Group K - Oxagon operator

SUPERSEDEAS DECISION

STATE: California COUNTY: San Diego
DECISION NUMBER: CA82-5122 DATE: Date of Publication
Supersedes Decision No. CA81-5143 dated August 21, 1981, in 46 FR 42591
DESCRIPTION OF WORK: Building Projects (including Residential Projects consisting of single family homes and apartments up to and including 4 stories), Heavy and Highway Projects and Dredging

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$19.25	$3.86
BOILERMAKERS	19.61	3.59
BRICKLAYERS; Stonemasons	19.09	3.59
BRICK, BLOCK and STONEMASONS' TENDERS	15.42	4.54
CARPENTERS:		
Carpenters	18.06	2.93
Piledriver	18.31	2.93
Millwrights; Pneumatic Nailer; Hardwood Floorlayers	18.66	2.93
CEMENT MASONS:		
Cement Masons	14.46	5.87
Color Work; Composition, Mastic or Epoxy; Finishing Machine; Curb Machine	14.76	5.87
DIVERS:		
Diver	41.12	2.93
Stand-by Divers	20.56	2.93
Tender	19.56	2.93
DRYWALL INSTALLERS	19.90	2.93
DRYWALL FINISHERS	15.31	3.48
ELECTRICIANS:		
Electricians; Technicians	20.32	4.22
Cable Splicers	20.77	4.23
Utility Technician	16.00	.95
ELEVATOR CONSTRUCTORS:		
Mechanics	18.67	a+2.465
Helpers	13.07	a+2.465
Probationary Helpers	9.335	
GLAZIERS	16.02	2.65
IRONWORKERS:		
Fence Erectors	16.41	7.03
Reinforcing; Ornamental; Structural	17.30	7.03
IRRIGATION and LAWN SPRINKLERS	$15.00	$6.00
LABORERS:		
Group 1	13.85	4.92
Group 2	14.15	4.92
Group 3	14.35	4.92
LABORERS: (Tunnel):		
Group 1	14.35	4.92
Group 2	14.15	4.92
Group 3	14.60	4.92
LATHERS	18.57	2.95
LINE CONSTRUCTION:		
Groundman	15.58	3.95
Lineman	20.23	4.09
Cable Splicers	20.53	4.10
PAINTERS:		
Brush, Paint Burner	18.37	4.47
Brush (swing stage), Spray	18.62	4.47
Paperhangers, Spray (swing stage)	18.87	4.47
Sandblaster (swing stage); Iron, steel and bridge painters (swing stage); Iron, steel and bridge painter, Spray (swing stage)	19.37	4.47
Sandblaster; Iron, steel and bridge painter (groundwork); Iron, steel and bridge painters, Spray (groundwork); Riggers, climbing steel; Brush, climbing steel and bridge; Spray, climbing steel and bridge	19.12	4.47
Steeplejack	20.02	4.47
Taper	18.67	4.47

	Basic Hourly Rates	Fringe Benefits
PAINTERS: (Cont'd)		
Parking Lot Work and/or Highway Markers: Traffic delineating device applicator	$12.12	$1.55+b
Wheel stop installer; Striper; and Sandblaster	11.96	1.55+b
Slurry Seal Operation: Traffic surface protective coating applicator	12.42	1.55+b
Mixer Operator	11.96	1.55+b
Squeegee Man; Applicator Operator; and Shuttleman	10.60	1.55+b
Top Man	8.91	1.55+b
PLASTERERS	17.61	4.02
PLASTERERS' TENDERS	16.09	5.29
PLUMBERS; PIPEFITTERS; Steamfitters; Air Condition, Refrigeration	18.69	7.38
ROOFERS	14.29	5.16
SHEET METAL WORKERS	20.15	4.36
SOFT FLOOR LAYERS	15.40	4.79
SPRINKLER FITTERS	21.87	2.83
TILE, MARBLE, and TERRAZZO SETTERS	16.11	4.35
TILE, MARBLE, and TERRAZZO FINISHERS	13.29	3.30
POWER EQUIPMENT OPERATORS:		
Group 1	$16.75	$5.91
Group 2	17.03	5.91
Group 3	17.32	5.91
Group 4	17.46	5.91
Group 5	17.68	5.91
Group 6	17.79	5.91
Group 7	17.91	5.91
Group 8	18.08	5.91
Group 9	18.21	5.91
DREDGING: (Hydraulic Suction Dredge):		
Leverman	18.60	5.91
Watch Engineer; Welder; and Deckmate	18.02	5.91
Winchman (Stern Winch or Dredge)	17.47	5.91
Bargeman; Deckhand; Fireman; Oiler; Leveehand	16.93	5.91
CLAMSHELL DREDGES:		
Leverman	18.60	5.91
Watch Engineers and Deckmate	18.02	5.91
Bargemate	17.54	5.91
Bargeman; Deckhand; Fireman; Oiler	16.93	5.91
TRUCK DRIVERS:		
Group 1	14.89	4.64
Group 2	15.19	4.64
Group 3	15.39	4.64
Group 4	15.59	4.64
Group 5	15.79	4.64
Group 6	17.79	4.64

RIGGERS; WELDERS - Receive rate prescribed for craft performing operation to which rigging or welding is incidental.

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

b. Employer contributes $.34 per hour to Holiday Fund plus $.24 per hour to Vacation Fund for the first year of employment, 1 year but less than 5 years $.45 per hour to Vacation, 5 years but less than 10 years $.60 per hour to Vacation Fund, over 10 years $.80 per hour to Vacation Fund.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

LABORERS

Group 1: Laborer (general construction); Asphalt Ironer - Spreader; Boring Machine Tender; Caulker; Cesspool Digger and Installer; Chucktender (except tunnels); Concrete Curer (Impervious Membrane and Form Oiler); Concrete Water curing, Cutting Torch Operator (demolition); Driller's Tender (Caisson) including Bellowers, Dri Pak-it Machine, Concrete Cutting Torch, Dry packing of concrete, plugging, filling of Shee Bolt Holes, Fine Grader on highways, streets and airport paving (sewer and drainage lines when employed); Form Blower; Gas and Oil Pipeline Laborer; Guinea Chaser; Jet Man; Landscape Gardener and Nursery Man; Laser Beam in connection with Laborers work; Packing Rod Steel and Pans; Pipelayer's Backup Man (coating, grouting, making of Joints, sealing, caulking, diapering and including Rubber Gasket Joints and pointing); Railroad work Laborer; Rigging and Signaling, Riprap Stonepaver; Sandblaster (Pot Tender); Scaler, Septic Tank Digger and Installer; Tank Scaler and Cleaner, Tool Shed Checker; Window Cleaner; Rebound Man (gunite industry); Housemover

LABORERS (Cont'd)

Group 2: Asphalt Raker; Buggymobile Man; Cement Dumper (on 1 yard or larger mixers and handling bulk cement); Concrete Saw Man (excluding tractor type, Roto-scraper, Chipping Hammer, Concrete Core Cutter and Concrete Grinder and Sander); Cribber - Shorer, Lagging and Trench Bracing, Hand-guided Lagging Hammer; Driller - All power Drills, including Jackhammer, whether Core, Diamond, Wagon, Track, Multiple Unit, and all types of Mechanical Drills without regard to the form of motive power; Driller (all other where drilling is for use of explosives); Gas and Oil Pipeline Wrapper (Pot Tender and Form Man); Gas and Oil Pipeline Wrapper (6 inch pipe and over); Operator and Tenders of pneumatic, gas and electric tools; Concrete Pumps; Vibrating Machines; Multi-plate Impact Wrench and similar mechanical tools not separately classified herein; Pipelayer (performing all services in the laying and installation of pipe from the point of receiving pipe until completion of the operation, including any and all forms of tubular material, whether Pipe, Metallic or Non-metallic, Conduit and any other stationary type of tubular device used for the conveying of substance or element, whether water, sewage, solid, gas, air or other products what-so-ever and without regard to the nature of material from which the tubular material is fabricated; Powderman; Blasters' Tenders; Prefabricated Manhole Installer; Rock Slinger; Sandblaster and Waterblaster (Nozzleman); Scaler (using Bos'n Chair, Safety Belt); Steel Headerboard Man; Tree Climber, using mechanical tools; Welding in connection with Laborer's work; Gun Man (gunite industry)

Group 3: Fence Erector; Nozzleman and Rod Man (gunite industry)

TUNNEL LABORERS

Group 1: Blasters; Drillers; Powdermen; Cherry Pickerman; Grout Gunmen; Kemper and other pneumatic Concrete Placer Operator Miners in short dry tunnels under streets, highways and similar places; Miners - tunnel (hand or machine); Powderman (tunnel work); Steel Form Raisers and Setters; Timbermen; Retimbermen - wood or steel

Group 2: Bull Gang Muckers (Trackman); Chucktender; Cabletender; Concrete Crew (includes Rodders and Spreaders); Dumpmen; Grout Crew; Tender for Steel Form Raisers and Setters; Muckers - Tunnel (hand or machine); Nipper; Swamper (Breakman and Switchman) on tunnel work; Vibratormen; Jackhammer; Pneumatic tools (except Driller); Mutli-plate Impact Wrench

Group 3: Powdermen - Primer House (Licensed on tunnel work); Shaft and Raise Miner; Shifters; Blasters (licensed) all work of whatevertype regardless of method used for such loading and placing

POWER EQUIPMENT OPERATORS

Group 1: Brakeman; Compressor Operator; Engineer Oiler; Generator; Pump; Signalman; Switchman; Ditchwitch; Elevator Operator (inside); Forklift (under 5 tons);

Group 2: Concrete Mixer (skip type); Conveyor; Fireman; Hydrostatic Pump; Plant Operator; Generator, Pump or Compressor; Rotary Drill Tender (oilfield); Skiploader - wheel type up to 3/4 yd. without attachments; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Concrete Pump Oiler (truck mounted)

Group 3: Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power driven Jumbo Form Setter; Stationary Pipe Wrapping and Cleaning Machine; Gradall Oiler; Surge Tank and Weight Master (Hot Plant); Trencher Oiler (foundations); Truck Crane Oiler

Group 4: Asphalt Plant Fireman; Boring Machine; Chip Spreading Machine; Concrete Pump Operator; Dinkey Locomotive or Motorman (10 ton); Helicopter Hoist; Highline Cableway Signalman; Power Sweeper; Trenching Machine (up to 6 ft.); Concrete Pump Operator, truck mounted; Rodman and Chainman; Helicopter Radioman

Group 5: A-frame Winch Truck Operator; Asphalt Plant or Concrete Batch Plant Operator (where commercial power is not used, no less than one Generator Operator is required); Asphalt Spreading Machine Operator (Spreader Bar and similar); Bit Sharpener; Boxman or Mixerman (asphalt or concrete); Concrete Joint Machine Operator (canal and similar type); Concrete Planer Operator; Derrickman (oilfield type); Drilling Machine Operator (including water wells); Equipment Greaser (Mobile and Grease Rack); Forklift Operator (over 5 ton capacity); Hydro-hammer - Aero Stomper; Hydrographic Seeder Machine Operator (straw, pulp, or seed); Machine Tool Operator; Maginnis Internal Full Slab Vibrator; Mechanical Finisher Operator (Concrete-Clary-Johnson-Bidwell or similar); Pavement Breaker Operator (truck mounted, oiler required); Road Oil Mixing Machine Operator; Roller Operator; Ross Carrier Operator (jobsite); Self-propelled Tar Pipelining Machine Operator; Skiploader Operator (wheel or track type over 3/4 yd. up to and including 1½ yds.); Skiploader - Ford Ferguson up to 3/4 yd. with drag attachments; Slip Form Pump Operator (power driven hydraulic lifting device for concrete forms); Screed Operator; Stinger Crane (Austin-Western or similar type); Traveling Pipe Wrapping, Cleaning and Bending Machine Operator; Truck type Loader; Tugger Hoist (1 drum)

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt or Concrete Plant Engineer; Asphalt or Concrete Spreading Operator (tamping or finishing); Asphalt Paving Machine Operator (Barber Green or similar type); Automatic Curb Machine; Belt Splicer or Vulcanizer; BHL Lima Road Pactor; Wagner Pactor or similar Operator; Bridge Crane Operator; Bridge type Unloader and Turntable Operator; Cast-in-place Laying Machine; Combination Mixer and Compressor Operator (Gunite work); Concrete Mixer; Concrete Mixer Operator - paving (Oiler required); Crane Operator (up to and including 25 ton capacity)(Oiler required)(Long Boom Pay applicable); Crushing Plant Operator (Oiler required)(where commercial power is not used, no less than one Generator Operator is required); Deck Engine Operator; Drill Doctor; Elevating Grade Operator; Gradall Operator (Oiler required); Grade Checker; Grouting Machine Operator; Guard Rail Post Driver Operator; Heavy Duty Repairman; Hoist Operator (single drum - Buck Hoist - Chicago Boom and similar type); Hoist Operator (2 or 3 drum); Kolman Belt Loader and similar type (when two or more are working together an additional employee shall be required); LeTourneau Blob Compactor or similar type; Lift Mobile Operator (Oiler required); Lift Slab Machine Operator (Vagtborg and similar types); Material Hoist Operator (1 drum); Mucking Machine Operator (1/4 yd.) (Oiler required)(rubber-tired, rail or track type); Pile Driver Operator (Oiler required); Pneumatic Concrete Placing Machine Operator (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun Operator; Polar Gantry Crane Operator; Rotary Drill Operator (excluding Caisson type)(Oiler required); Rubber-tired Earth Moving Equipment Operator (single engine - Caterpillar, Euclid, Athey Wagon - Water Pulls and similar types with any and all attachments up to 50 cu. yds. struck); Rubber-tired Scraper Operator (self-loading paddle wheel type - John Deere 104 and similar single unit); Skiploader Operator (wheel or track type, over 1½ yds. up to and including 6½ yds.); Stinger Crane (Austin-Western-Pettibone or similar type) (over 5 tons); Surface Heaters and Planer Operator; Tractor Compressor Drill Combination Operator; Tractor Operator (Bull Dozer, Tamper, Scraper, and Push Tractor, single engine); Trenching Machine Operator (over 6 ft. depth capacity - manufacturers rating) (Oiler required); Tunnel Locomotive Operator (10 to 30 tons); Universal Equipment Operator (Shovel, Backhoe, Dragline, Clamshell, up to and including 1 cu. yd. M.R.C.) (Oiler required) (Long Boom Pay applicable); Welder (general)

POWER EQUIPMENT OPERATORS (Cont'd)

Group 7: Automatic Lineau Tension Machine (2 Operator required); Crane Operator (over 25 tons, up to and including 100 ton M.R.C.) (Long Boom Pay applicable) (Oiler required); Derrick Barge Operator (Oiler required, up to 100 tons) (over 100 tons, Fireman or Oiler required); Dual Drum Mixer (Oiler required); Hoist Operator (2 or 3 drum with boom attachment); Hoist Operator (Stiff Leg, Guy Derrick or similar type up to 100 ton capacity) (Oiler required, Long Boom pay applicable); Loader Operator (Athey, Euclid, Sierra or similar type); Monorail Locomotive Operator (diesel, gas, or electric); Motor Patrol - Blade Operator; Multiple Engine Tractor Operator (Euclid and similar type, except Quad 9 Cat); Pre-stressed Wrapping Machine Operator (2 Operators required); Rubber-tired Earth Moving Equipment Operator (multiple engine, Euclid, Caterpillar and similar type up to 50 cu. yds. struck); Tractor Loader Operator (Crawler and wheel type over 6½ yds.); Tractor Operator (boom attachments) (over 40 ft. boom, Oiler required); Tower Crane Operator (two Operators required); Tower Crane Repairman; Universal Equipment Operator (Shovel, Backhoe, Dragline, Clamshell, over 1 cu. yd. M.R.C.); Welder - certified; Welder-Heavy Duty Repairman Combination; Woods Mixer Operator and other similar Pugmill Equipment

Group 8: Auto Grader Operator (one Grade Checker and one additional employee required); Automatic Slip Form Operator (Grade Checker and one additional employee required); Crane Operator (over 100 tons, two Operators required, Long Boom Pay applicable); Mass Excavator Operator (two or more Operators and Oiler required, less than 750 cu. yds.); Mechanical Finishing Machine Operator; Mobile Form Traveler Operator; Motor Patrol Operator (multi-engine); Pipe Mobile Machine Operator (two Operators required); Rubber-tired Earth Moving Equipment Operator (multi-engine, Euclid, Caterpillar, and similar type over 50 cu. yds. struck); Rubber-tired Scraper Operator (pushing one another without Push Cat, Push Pull - $.50 per hour additional to base rate); Rubber-tired Self Loading Scraper Operator (paddle wheel - Auger type Self Loading, 2 or more units); Polar Crane Operator; Tandem Equipment Operator (2 units only); Tandem Tractor Operator (Quad 9 or similar type); Tunnel Mole Boring Machine Operator

Group 9: Canal Liner or Trimmer Operators (not less than four (4) employees required - Oiler, Welder - Mechanic and Grade Checker); Helicopter Pilot; Highline Cableway Operator; Remote Controlled Earth Moving Equipment Operator (no one Operator shall operate more than two pieces of earth moving equipment at one time) ($1.00 per hour additional to base rate); Wheel Excavator Operator (over 750 cu. yds. per hour, two Operators and one Oiler and two Heavy Duty Repairmen required)

TRUCK DRIVERS

Group 1: Traffic Control, also Swampers and Pickups

Group 2: 2 axle Dumps; 2 axle Flatbed; Bunkerman; Concrete Pumping; Industrial Lift; Warehouseman; Forklift, under 15,000 lbs.

Group 3: 3 axle Dump; 3 axle Flatbed; 2 axle Water Trucks; Erosion Control Nozzleman; Dumpcrete, less than 6½ yds.; Forklift 15,000 lbs. and over; Prell; Pipeline working Truck Driver; Road Oil Spreader; Cement Distributor or Slurry Driver; Bootman; Ross Carrier

Group 4: Off-road Dump, under 35 tons; 4 axle but less than 7 axle; Lowbed and Trailer; Transit Mix, under 8 yds.; 3 axle Water Trucks; Erosion Control; Grout Mixer; Dumpcrete 6½ yds. and over; Dumpsters; DW 10's, 20's and over; Fuel Truck and Dynamite; Winch, 2 axle; Truck Greaser

Group 5: Off-road Dump, 35 tons and over; 7 axle or more; Transit Mix, 8 yds. and over; A-frame or Swedish Cranes; Tireman; Water Pull Tankers; Welder; Winch Truck, 3 axle or more

Group 6: Truck Repairman

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: NEW YORK COUNTY: ORANGE
DECISION NO.: NY82-3025 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY81-3003 dated January 23, 1981 in 46 FR 7737
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	19.3675	3.3893
Boilermakers	17.12	32%+.04
Bricklayers, Cement Masons		
Plasterers and Stonemasons		
All that portion bounded on the East by the Hudson River to Woodbury Twp. line South of Bear Mt., thence along this line to a point South of Lake Mombasha, thence due West to the Lehigh-Hudson River R.R. line, thence Wortherly along this R.R. line to Maybrook, then Wortherly along the Pen Central R.R. line to the Ulster County line and along this line Easterly to the starting point, the Hudson River. All that portion lying within these boundaries including the towns on the East side of the above named R.R. lines:		
Building	13.51	3.67
Heavy & Highway	13.76	3.67
Starting at the junction of Ulster County, Sullivan County, and Orange County, along Ulster County line, Southeast to the New York New Haven and Hartford R.R. line to a point South of Wisner, thence East to the top of the Bellvale Mt. Range, thence Southerly to the New Jersey State line, including the Towns of Warwick, New Millford & Bellvale		
Building	12.75	4.37
Heavy & Highway	13.00	4.37
Carpenters, Soft Floor Layers, Bridge, Dock and Wharf:		
Twps. of Tuxedo, Woodbury, Part of Cornwall, Monroe, Chester, Blooming Grove and Highlands	12.90	4.05+e
Carpenters, Piledrivermen & Dock Builders:		
Remainder of County	13.10	4.00
Laborers, Building Construction:		
Common laborers, mason tenders, mortar mixers, hod carriers, scaffold builders, concrete men, signalman, vibrator men, poured gypsum roof work, wrecking, walking power buggy, landscaper, chipping hammer (air or electric 1" or under), operation and tending of all power driven hand fed mortar or concrete mixers, pumpcrete machines, plastering, fireproofing, and accoustic pumps and mixers		
Where total contract price does not exceed $200,000	10.62	2.90
Where total contract price exceeds $200,000	11.80	2.90
Asphaltmen, pipelayers, air or electric jackhammer, air track, wagon, joy and jib drills, powdermen, gunnite or sandblasting barmen, chain saw operator, riding power buggy, vibro barco, joy tamper or similar type tamper (air or gas), walk behind roller, granite curbing, all fork lifts and laser operations		
Where total contract price does not exceed $200,000	10.85	2.90
Where total contract price exceeds $200,000	12.05	2.90
Blasters, form setters, burner acetylene torch, ingersoll rand, heavy duty crawler-master type HCM2, drill machine or equivalent all wrecking work 50' or more above the ground		
Where total contract price does not exceed $200,000	11.21	2.90
Where total contract price exceeds $200,000	12.45	2.90
Lathers	9.57	2.21
Marble Setters, Terrazzo Workers & Tile Setters:		
West Newburgh, Little Britain, Rock Tavern, Lagrange, New Hampton, Ridgeburg & Johnson to County Line and all areas inclusive South thereof		
Marble Setters, Cutters	14.20	2.92+e
Marble Setters' Helpers	12.20	2.92+e
Terrazzo Workers	11.88	2.82
Terrazzo Workers' Helpers	9.48	2.71
Terrazzo Machine Operator	7.68	.95
Tile Setters	12.325	2.25
Tile Setters' Helpers	11.71	1.825
That area in Orange County following within a 50 mile radius from Columbus Circle, NYC. (Arced boundary line is just south of Newburgh; South of Maybrook; North of Goshen, South of Middletown; North of Johnson; North of Unionville		
Marble Setter Helpers	9.65	1.85+f
Tile Setter Helper	9.05	1.85+f
Terrazzo Helper	9.65	1.85+f
Painters:		
Commercial Spray, Sandblasting, Steel, Smoke Stacks, Bridges, Power Plants, Radio Towers, Epoxy and other toxic materials	13.59	1.65
Plumbers & Steamfitters		
Twps., Villages and Hamlets and/or portions thereof: Lakeville, Four Corners, Sterling Forest, Tuxedo, Tuxedo Park, Southfield, Arden, Newburgh Junction, Greenwood Lake, Monroe, Harriman, Woodbury Falls, Woodbury Station, Central Valley, and the Palisades Interstate Park and Bear Mountain Park	13.86	2.86
Jobbing & alterations Under $5,000	9.80	2.86
Roofers:		
Pitch, Pitch built up	14.40	4.75+g
Asphalt Shingle	9.25	4.75+g
Asbestos, Slate & Tile, Slab, & Asphalt Built up	13.90	4.75+g
Sheet Metal Workers	15.73	4.78
Sprinkler Fitters	16.92	2.83

Welders receive rate prescribed for craft performing operation to which welding is incidental

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO. NY82-3025

FOOTNOTES:

a. In the event of a death in the family of the member of the unit he shall be paid 3 days wages, family means husband, wife, mother, father, sister, brother or children. Wages are only paid on the condition that the member of the unit attends the funeral of the deceased.

b. Employer contributes $7.00 per day to Annuity Fund.

c. Employer contributes 6.4% of basic hourly rate for 5 years or more service or 4.2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Election Day shall be observed in accordance with New York State Law.

e. Paid Holidays: New Year's Eve & Christmas Eve.

f. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Good Friday, Columbus Day, providing employee works any one of three days preceeding or following the holiday.

g. Two hours off with pay on General Election Day, provided the employee has received 4 hours pay that day.

DECISION NO. NY82-3025	Basic Hourly Rates	Fringe Benefits
HEAVY & HIGHWAY CONSTRUCTION LABORERS:		
GROUP I	12.35	2.90+a
GROUP II	12.60	2.90+a
GROUP III	13.00	2.90+a

HEAVY AND HIGHWAY CONSTRUCTION

GROUP I
Laborers, pitman, chuck tender, dump men, placing and maintenance of all flares, lights, barracades and all reflective type materials for traffic control

GROUP II
Concrete men, vibrator men, asphalt men, joint setter, signal men, mason tenders, mortar men, pipelayers, rip rap and dry stone layers, steel rod carriers, jackhammer, pavement breaker, wagon drill, air track, jib rig and joy drill op., power buggy op., gunnite and sandblasting, coal passers and other machine op., sprayer and nozzle men on mulching and seeding machines, all seeding and sod laying, all landscape work, grade checkers, all bridge work, walk behind self-propelled power saw walk behind rollers and tampers of all types, wrecking laborers (including barmen and burnermen), sheeting and shoring laborers, bit grinder, operator of form pin pullers and drivers, joint and jet sealers and filling and wiring of baskets for gabion walls, permanent signal man

GROUP III
Concrete finisher on highways, form setter, granite stone layer, ingersoll rand heavy duty crawler - master type HOMZ or equivalent or any drill using a 4" or larger bit

FOOTNOTE:
a. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Lincoln's Birthday; Washington's Birthday; Columbus Day; Election Day; Veteran's Day; provided employee works one day in the calendar week in which the holiday falls and reports for work the first working day following the holiday.

DECISION NO. NY82-3025	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION		
Electrical Overhead & Underground Distrubution Work		
Journeyman Lineman & Technician	12.00	2.40+3% +a
Cable Splicer	16.00	2.40+3% +a
Groundman Digging Machine Operator, Groundman Dynamite Man	10.80	2.40+3% +a
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.60	2.40+3% +a
Groundman Truck Driver (Tractor Trailer)	10.20	2.40+3% +a
Driver Mechanic, Groundman - Experienced	9.00	2.40+3% +a
All Overhead Transmission Line Work and Lighting for Athletic Fields		
Journeyman Lineman & Technician	13.80	2.40+3% +a
Groundman Digging Machine Operator, Groundman Dynamite Man	12.42	2.40+3% +a
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.04	2.40+3% +a
Groundman Truck Driver (Tractor Trailer Unit)	11.73	2.40+3% +a
Driver Mechanic, Groundman-Experienced	10.35	2.40+3% +a
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems		
Journeyman Lineman & Technicians	14.55	2.40+3% +a
Cable Splicer	16.005	2.40+3% +a
Groundman Digging Machine Operator, Groundman Dynamite Man	13.095	2.40+3% +a
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.64	2.40+3% +a
Groundman Truck Driver (Tractor Trailer Unit)	12.36	2.40+3% +a
Driver Mechanic, Groundman-Experienced	10.91	2.40+3% +a
All Pipe type Cable Installations, Maintenance Jobs or Projects		
Journeyman Lineman	14.55	2.40+3% +a
Certified Lineman Welder	15.27	2.40+3% +a
Cable Splicer	16.005	2.40+3% +a
Groundman Equipment Operator	14.55	2.40+3%
Groundman Truck Driver (Tractor Trailer Unit)	12.36	2.40+3% +a
Groundman Truck Drivers	11.64	2.40+3% +a
Groundman	10.91	2.40+3% +a

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the Presidential of the United States and Election Day for the Presidential of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

DECISION NO. NY82-3025	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION:		
GROUP 1	16.91	25%+.40 +a
GROUP 2	15.09	25%+.40 +a
GROUP 3	14.21	25%+.40 +a
GROUP 4	14.10	25%+.40 +a
GROUP 5	13.87	25%+.40 +a
GROUP 6	13.38	25%+.40 +a
GROUP 7	13.09	25%+.40 +a
GROUP 8	12.92	25%+.40
GROUP 9	12.87	25%+ .40+a
GROUP 10	12.75	25%+ .40+a
GROUP 11	12.70	25%+ .40+a
GROUP 12	12.46	25%+ .40+a
GROUP 13	12.06	25%+ .40+a
GROUP 14	11.89	25%+ .40+a
GROUP 15	11.55	25%+ .40+a

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION

GROUP 1
Helicopters pilot/engineer

GROUP 2
Autograde-combination subgrader, base MTL spreader & base trimmer (CMI & similar type); autograde placer-trimmer-spreader-combination (CMI & similar types); autograde slip form paver (CMI & similar types); back hoes (all types, including all combination hoe loaders); central power plants (all types); concrete paving machines; cranes (all types, including overhead & straddle travelling type); cranes, gantry; derricks- land or floating (building & heavy construction rate only), drill master, quarry master (down the hole drill); draglines; elevator graders; engines, large diesel (1625 HP) and staging pump; front end loaders (5 yds & over); gradalls; grader, rago; helicopters co-pilot and communication engineer; jacks, screw air hydraulic power operated unit or console type (not hand jack or pile load test type); locomotive (large); mucking machines; pavers (21E and over); paver, resinous, Broyhill; pavement and concrete breaker (i.e. superhammer); pavement breaker truck mounted; piledriver; scooper (loader and shovel) Koehring; shovels; treechopper with boom; trench machines

SCHEDULE #34 ORANGE COUNTY, NEW YORK

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 3
Pump, staging

GROUP 4
A-frame, boom attachment on loaders; boring & drilling machines; brush chopper, shipper & shredder; cableways; carryalls; cherry pickers - 6 tons & under (over 6 tons - crane rate applies); concrete pump; concrete pump system, pumpcrete, squeezecrete & similar types; equipment); forklifts; front end loaders (2 yds but less than 5 yds); groove cutting machines (ride or type); heater planer; hoist (Chicago Boom); Pans, LeTourneau, DW's Ukes, pumpcrete machines, squeezecrete & concrete pumping; scrapers-LeTourneau, Dw's Ukes; side booms; squeezecrete; "straddle" carrier, Ross and similar types; winch trucks (hoisting)

GROUP 5
Aerial platform (used as hoist); hoists all types except Chicago Boom type (building & heavy construction rate only); elevator or house cars (building and heavy construction rate only); roof hoists

GROUP 6
Asphalt spreaders; bridge deck finisher; grader, finish only; rollers-backtop

GROUP 7
Asphalt curbing machines; asphalt plant engineer; autograde tube finisher & texturing machine (CMI & similar types); autograde concrete machine (CMI & similar types); autograde curb trimmer & sidewalk shoulder, slipform (CMI & similar types); barbending machines (power); batchers, batching plant & crusher on site; bet convey or system; boilers and steam jennies (building & heavy construction rate only); boom type skimmer machines (building & heavy construction rate only); car dumpers (railroad); compressor and blower type units; concrete breaking machines; concrete finishing machines; concrete saws & cutters (ride on type); concrete spreadershetzel, recomatic & similar types; concrete vibrators (highway, road, street & sewer construction rate only); conveyors, under 125 ft.; crushing machines; ditching machine, small (Ditch witch or

SCHEDULE #34 ORANGE COUNTY, NEW YORK

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 7 (CONT'D)
similar); drill doctor (duties include dust collector); dope pots (mechanical with or without pump); dumpsters; fine grade machine (large type); front end loaders (1 yd & over but less than 2 yds) - highway, road, street & sewer construction rate only; front end loaders (under 2 yds) - building and heavy construction rates only; generators; giraffe grinders; graders and motor patrols; gunnite machines (excluding nozzle); hammer vibratory (in conjunction with generator); hoppers; hopper doors (power operated); ladders (motorized) - building & heavy construction rate only; laddervator; lights, portable generating light plants; locomotive (dinky type); mechanic; mixers (excepting paving mixers); motor patrols & graders; pavers (under 21E); pavement breakers - small, self-propelled ride on type (also maintains compressor or hydraulic unit); pipe bending machine (power); pitch pump; plasterer pump (regardless of size) - building & heavy construction rate only; post hole digger; rod bending machines (power); scales, power; seaman oulverizing mixer; silos; skimmer machines (boom type) - highway, road, street & sewer construction rate only; steam jennies and boilers; steel cutting machines, services & maintains; vibrating plants (used in conjunction with unloading); welder and repair mechanic

GROUP 8
Compressors (2 or 3 within a total distance of 100' constitutes a battery) - building & heavy construction rate only; welding machines, gas or electric converters of any type - (2 or 3 in battery) - building and heavy construction rates only; welding system, mutiple (rectifier transformer type) - building & heavy construction rate only

GROUP 9
Brooms & sweepers; bulldozer, D5 and over; fireman, sprinkler and water pump trucks (used on job site or in conjunction with jobsite); stone spreaders; sweepers & brooms; tractor, D8 & over; water and sprinkler trucks (used on job site or in conjunction with job site)

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SCHEDULE #34 ORANGE COUNTY, NEW YORK

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 10
Compressors (2 or 3 within a total distance of 100' constitutes a battery) - highway, road, street and sewer construction rate only

GROUP 11
Front end loaders (under 1 yd.) - highway, road, street & sewer construction rate only

GROUP 12
Bulldozer under D5; rollers - grade fill or stone base; tractors, under D8

GROUP 13
Compressor (single); heaters (Nelson or other type including propane, natural gas of flow type units); pumps (4 inch suction & over including submersible pumps); pumps (2 or less than 4 inch suction including submersible pumps); pumps, diesel enginer & Hydraulic (immaterial of power) - highway, road, street & sewer construction rate only; temporary heating plant (Nelson or other type, including propape, natural gas or flow type units); welding machines, gas or electric converters of any type - single (building & heavy construction rate only); welding machines, gas or electric converters of any type (2 or 3 in battery) - highway, road, street & sewer construction rate only; wellpoint systems (including installation and maintenance)

GROUP 14
Concrete spreaders, (small type) convey or loaders (not including elevator graders) - highway, road, street & sewer construction rate only, farm tractors (highway, road, street & sewer construction rate only); fertilizing equipment; fine grade machine (small type) - highway, road, street and sewer construction rate only; form line graders (small type) - highway, road, street & sewer construction rate only; grease, gas, fuel and oil supply trucks; mixers, concrete small (highway, road, street and sewer construction rate only); mulching equipment; road finishing machines (small type) - highway, road, street and sewer construction only; seeding equipment; tamping machines, vibrating self-propelled; welding machines, gas or electric converters of any type-single (highway, road, street and sewer construction rate only)

GROUP 15
Assistant engineer/oiler; mechanics helper; tire repair and maintenance

DECISION NO. NY82-3025	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: STEEL ERECTION					
GROUP 1	18.72	25%+.40 +a	GROUP 7	12.94	25%+ .40+a
GROUP 2	16.91	25%+.40 +a	GROUP 8	12.57	25%+ .40+a
GROUP 3	16.00	25%+.40 +a	GROUP 9	12.01	25%+ .40+a
GROUP 4	15.26	25%+.40 +a			
GROUP 5	13.48	25%+.40 +a			
GROUP 6	13.09	25%+.40 +a			

50¢ per hour on machines where "Cat Head" or "Sheave Point" is at least 100 feet above groung level and less than 140 feet; 75¢ per hour on machines where "Cat Head" or "Sheave Point" is 140 feet, or "Sheave Point" is 140 feet, or over above ground level.

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day, and Veterans Day provided the employee works any of the 3 days in the 5 work days preceeding the holiday and the first work day after the recognized holiday.

SCHEDULE #34 ORANGE COUNTY, NEW YORK

POWER EQUIPMENT OPERATORS - STEEL ERECTION

GROUP 1
Helicopters pilot/engineer

GROUP 2
Cranes (all cranes - land or floating with booms - including jib, 140 feet and over above the ground); derricks (land or floating with booms including jib, 140 feet and over above the ground); helicopters co-pilot & communications engineer

GROUP 3
Cranes (all cranes - land or floating with booms - including jib, less than 140 feet above the ground): derricks (land or floating, with booms including jib, less than 140 feet above the ground)

GROUP 4
Aerial platform used as hoist; a-frame; cherry pickers - 6 tons and under (over 6 tons - crane rate applies); fork lifts; hoists (all types except Chicago Boom type); jacks (screw air hydraulic power operated unit or console type, not hand jack or pile load test type); side booms

GROUP 5
Compressors (2 or 3 in battery); generators; welding machines (gas Or electric convertors of any type 2 or 3 in battery multiple welders) welding system mutiple (rectifier transformer type)

GROUP 6
Maintenance engineer

GROUP 7
Fireman

GROUP 8
Compressor (single); rod bending machines (power); welding machines (gas or electric converters of any type-single)

GROUP 9
Assistant engineer/oiler; straddle carrier

DECISION NO. NY82-3025	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS		
Drivers on LeTourneau Tractors, double barrel Euclids, Athey wagon and similar equipment (except when hooked to scrapers), low beds, I-Bean, pole trailers, road oil distributors, tire trucks tractors and trailers with 5 axle and over	12.80	2.30+a
Equipment 25 yards and over up to and including 30 yard bodies cable dump trailers, powder and dynamite trucks	12.70	2.30+a
Equipment up to and including 24 yards bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks and all other tractor trailers	12.50	2.30+a
Ten wheelers, grease trucks and tiller men	12.40	2.30+a
Straight trucks, pick-up trucks used for hauling material parts escort man over the road	12.30	2.30+a

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTE:
a. Holidays: A through F

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Allegheny
DECISION NO.: PA82-3026 DATE: Date of Publication
Supersedes Decision No. PA80-3071, dated October 24, 1980, in 45 FR 70699.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
Bricklayers	$15.35	3.71
Carpenters:		
(3 story walk-up with no elevator)	10.15	17-¼%
Residential 4 story walk-up or with elevator	14.32	27%
Cement masons	15.31	3.52
Electricians (single or two family houses walk-up garden type apartments up to and including 4 stories)	10.90	1.15 + 3%
Residential 4 story walk-up or with elevator	16.80	2.85+ 3%
Glaziers	13.44	3.98
Ironworkers	15.84	3.88
Laborers	7.54	
Painters	8.60	
Plasterers	8.50	
Plumbers	15.05	3.04
Roofers	10.87	
Sheet metal workers	15.84	3.71
Soft floor layers	12.94	3.03
Steamfitters	15.20	2.89
Tile Setters	13.25	3.65
Truck Drivers	7.23	
POWER EQUIPMENT OPERATORS:		
Backhoe	16.025	3.04
Hi-Lift	16.025	3.04
Bulldozer	15.825	3.04
Roller Operator	13.94	3.04
Welder - Rate of Craft		

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (ii))."

SUPERSEDEAS DECISION

STATE: Utah COUNTIES: Statewide
DECISION NUMBER: UT82-5121 DATE: Date of Publication
Supersedes Decision No. UT81-5156 dated October 2, 1981, in 46 FR 48870
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.01	$2.39
BOILERMAKERS	16.06	3.59
BRICKLAYERS	12.65	1.57
CARPENTERS:		
Building Construction:		
Carpenters	12.90	1.58
Saw Operators; Carpenters handling creosote materials	13.15	1.58
Millwrights	13.75	1.58
Piledrivermen	14.58	1.58
Heavy and Highway Construction:		
Zone 1:		
Carpenters	12.75	1.83
Saw Operators; Carpenters handling creosote materials	13.00	1.83
Millwrights	12.75	1.83
Piledrivermen	17.05	1.83
Zone 2:		
Carpenters	13.75	1.83
Saw Operators; Carpenters handling creosote materials	14.00	1.83
Millwrights	12.75	1.83
Piledrivermen	17.05	1.83
Zone 3:		
Carpenters	15.25	1.83
Saw Operators; Carpenters handling creosote materials	15.50	1.83
Millwrights	12.75	1.83
Piledrivermen	17.05	1.83
CEMENT MASONS:		
Building Construction:		
Cement Masons	12.54	1.65
Machine Operator; Mastic Floor Materials	12.79	1.65
CEMENT MASONS: (Cont'd)		
Heavy and Highway Construction:		
Zone 1:		
Cement Masons	$12.14	$1.80
Machine Operator; Mastic Floor materials	12.39	1.80
Zone 2:		
Cement Masons	14.14	1.80
Machine Operator; Mastic Floor Materials	14.39	1.80
Zone 3:		
Cement Masons	14.54	1.80
Machine Operator; Mastic Floor Materials	14.79	1.80
DRYWALL INSTALLERS:		
Taping, finishing and texturing (hand or machine)	13.64	.94
ELECTRICIANS:		
Area 1:		
Zone 1:		
Electricians; Technicians	15.00	1.75+ 3-8/10%
Cable Splicers	15.25	1.75+ 3-8/10%
Zone 2:		
Electricians; Technicians	15.75	1.75+ 3-8/10%
Cable Splicers	16.50	1.75+ 3-8/10%
Zone 3:		
Electricians; Technicians	16.50	1.75+ 3-8/10%
Cable Splicers	16.75	1.75+ 3-8/10%

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS: (Cont'd)		
Area 1: (Con'td)		
Zone 3A:		
Electricians;		
Technicians	$16.00	$1.75+ 3-8/10%
Cable Splicers	16.25	1.75+ 3-8/10%
Zone 4:		
Electricians;		
Technicians	18.25	1.75+ 3-8/10%
Cable Splicers	18.50	1.75+ 3-8/10%
In Zones 2, 3, and 3A, on any job or project not exceeding $250,000.00 electrical, labor and material included, Zone 1 rate shall apply.		
Area 2:		
Zone 1A:		
Electricians;		
Technicians	15.65	2.00+ 3-8/10%
Cable Splicers	16.75	2.00+ 3-8/10%
Zone 1B:		
Electricians;		
Technicians	16.40	2.00+ 3-8/10%
Cable Splicers	16.95	2.00+ 3-8/10%
Zone 1C:		
Electricians;		
Technicians	17.15	2.00+ 3-8/10%
Cable Splicers	17.65	2.00+ 3-8/10%
Zone 2:		
Electricians;		
Technicians	19.65	2.00+ 3-8/10%
Cable Splicers	20.15	2.00+ 3-8/10%
ELEVATOR CONSTRUCTORS:		
Mechanics	14.045	2.465+a
Helpers	9.83	2.465+a
Probationary Helpers	7.02	

	Basic Hourly Rates	Fringe Benefits
GLAZIERS:		
Area 1	$19.23	$1.23
Area 2	13.20	1.31
IRONWORKERS:		
Fence Erectors; Ornamental; Reinforcing; Structural	14.25	1.75
LINE CONSTRUCTION WORKERS:		
Groundman	10.83	3¼+.95
Line Equipment Serviceman	12.98	3¼+.95
Line Equipment Mechanic:		
Base Shop	12.98	3¼+.95
Right-of-way	13.88	3¼+.95
Line Equipment Operators	13.20	3¼+.95
Linemen	14.67	3¼+.95
Cable Splicers	16.17	3¼+.95
MARBLE SETTERS	12.02	1.62
MASON TENDERS	11.02	.85
PAINTERS:		
Area 1:		
Brush; Roller	11.22	1.06
Spray; Sandblast; Steeplejack; Brush, steel and bridge; Brush (swing stage)	11.47	1.06
Spray (swing stage); Sandblaster (swing stage); Spray, steel and bridge	11.67	1.06
Area 2:		
Brush; Roller	12.90	1.23
Brush (swing Stage); Brush (steel and bridge); Spray, Sandblaster, Steeplejack	13.20	1.23
Spray (swing stage); Spray (steel and bridge); Sandblaster (swing stage)	13.45	1.23
Wallcovering Hanger	13.15	1.23
PLASTERERS' TENDERS	12.10	.85
PLASTERERS	13.44	1.30
PLUMBERS: Pipefitters	15.11	2.36
ROOFERS	11.74	1.02
SHEET METAL WORKERS	15.20	2.67
SPRINKLER FITTERS	14.09	2.43
TERRAZZO WORKERS and TILE LAYERS	12.02	1.62

LABORERS:	Basic Hourly Rates	Basic Hourly Rates
Building Construction:		
Group 1	$ 9.12	
Group 2	10.12	
FRINGE BENEFITS: $1.34		
Heavy and Highway Construction:	AREA 1	AREA 2
Group 1	$10.77	$13.27
Group 2	10.90	13.40
Group 3	11.02	13.52
Group 4	11.27	13.77
Group 5	11.77	14.27
Tunnel and Shaft Work:		
Group 1	10.92	13.42
Group 2	11.02	13.52
Group 3	11.22	13.72
Group 4	11.67	14.17
FRINGE BENEFITS: $1.69		
POWER EQUIPMENT OPERATORS:		
Building Construction:		
Group 1	10.78	12.78
Group 2	11.17	13.17
Group 3	11.37	13.37
Group 4	11.48	13.48
Group 5	11.99	13.99
Group 6	12.16	14.16
Group 7	12.28	14.28
Group 8	12.61	14.61
Group 9	12.68	14.68
Group 10	12.84	14.84
Group 11	13.02	15.02
Group 12	13.51	15.51
Group 13	14.47	16.47
Group 14	14.96	16.96
Group 15	15.24	17.24
FRINGE BENEFITS: $4.445		
Heavy and Highway Construction:		
Group 1	14.01	16.51
Group 2	14.36	16.86
Group 3	14.54	17.04
Group 4	14.65	17.15
Group 5	15.11	17.61

POWER EQUIPMENT OPERATORS: (Cont'd):	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2
Heavy and Highway Construction: (Cont'd):		
Group 6	$15.26	$17.76
Group 6-A	15.37	17.87
Group 7	15.67	18.17
Group 7-A	15.73	18.23
Group 8	15.79	18.29
Group 9	15.95	18.45
Group 10	16.39	18.89
Group 10-A	17.35	19.85
Group 10-B	17.80	20.30
Group 11	17.96	20.46
FRINGE BENEFITS: $5.37		
Steel Erection:		
Group 1	14.67	
Group 2	15.17	
Group 3	16.55	
Group 4	16.73	
Group 4-A	17.15	
Group 5	17.82	
Group 6	18.39	
Group 7	18.80	
Group 8	19.19	
Group 9	20.59	
Piledriving:		
Group 1	14.04	
Group 1-A	14.50	
Group 1-B	14.77	
Group 2-A	14.77	
Group 2-B	15.50	
Group 2-C	15.78	
Group 2-D	15.98	
Group 3	16.18	
Group 3-A	16.76	
Group 4	17.49	
Group 5	17.73	
Group 6	19.25	
FRINGE BENEFITS: $5.37		

TRUCK DRIVERS:	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2
Dump Trucks - water level capacity (bottom, end, and side)(including Dumpster Truck, Turna-wagons, Turnarockers and Dumpcrete):		
Less than 8 cu. yds.	$13.55	$16.05
8 cu. yds. and less than 14 cu. yds.	13.70	16.20
14 cu. yds. and less than 35 cu. yds.	13.85	16.35
35 cu. yds. and less than 55 cu. yds.	14.05	16.55
55 cu. yds. and less than 75 cu. yds.	14.25	16.75
75 cu. yds. and less than 95 cu. yds.	14.45	16.95
95 cu. yds. and less than 105 cu. yds.	14.65	17.15
105 cu. yds. and less than 130 cu. yds.	14.77	17.27
All 130 cu. yds. and over to be paid ($0.005) per cu. yd. capacity per hour in addition to rate for 105 yds. and less than 130 yds.		
Flat Rack Trucks, Bulk Cement Trucks, Transport Trucks, Semi-trailer (carrying capacity):		
Pickup	13.375	15.875
Less than 10 tons	13.45	15.95
10 tons and less than 15 tons	13.60	16.10
15 tons and less than 20 tons	13.70	16.20
20 tons and over	13.85	15.35
Transit Mix Trucks:		
Less than 8 cu. yds.	13.775	16.275
Over 8 to 14 cu. yds.	13.875	16.375

TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2
Concrete Pumping Trucks	$13.775	$16.275
Water, Fuel and Oil Trucks:		
less than 1200 gallons	13.425	15.925
1200 gallons to less than 2500 gallons	13.55	16.05
2500 gallons to less than 4000 gallons	13.70	16.20
4000 gallons to less than 6000 gallons	14.00	16.50
6000 gallons to less than 10,000 gallons	14.25	16.75
10,000 gallons to less than 15,000 gallons	14.50	17.00
15,000 gallons to less than 20,000 gallons	14.75	17.25
20,000 gallons to less than 25,000 gallons	15.00	17.50
25,000 gallons and over	15.25	17.50
Oiler Spreader Operator (Boot Man is not required)	14.25	16.75
Fork Lift, Straddle Truck -	13.75	16.25

FRINGE BENEFITS:
$4.17

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. 7 Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day

AREA and ZONE DESCRIPTIONS

CARPENTERS:
Heavy and Highway Construction:
Zone 1: Area 0 to 40 road miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, and Vernal
Zone 2: Area 40 to 60 road miles from the Cities listed in Zone 1
Zone 3: Area over 60 road miles from the Cities listed in Zone 1

CEMENT MASONS:
Heavy and Highway Construction:
Zone 1: Area 0 to 40 road miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, and Vernal
Zone 2: Area 40 to 60 road miles from the Cities listed in Zone 1
Zone 3: Area over 60 road miles from the Cities listed in Zone 1

ELECTRICIANS:
Area 1: North section of Utah - Box Elder and Cache Counties; Davis County (north of 41st Parallel); Morgan, Rich, and Weber Counties:
Zone 1: That area 10 miles on either side of Interstate Highway #15, commencing on the south at the 41st Parallel in Davis County, continuing north to Highway #91 - Interstate #15 junction south of Brigham City; at this point go east and north through Logan and continue north to the 42nd Parallel in Cache County on Highway #91
Zone 2: That area not included in Zone 1 that lies east of 112°20' longitude in Box Elder County and that area lying west of 111°35', north of the 41st Parallel in Cache, Morgan, Weber Counties

AREA and ZONE DESCRIPTIONS (Cont'd)

ELECTRICIANS: (Cont'd)
Area 1: (Cont'd)
Zone 3: That area lying east of 111°35' longitude and north of the 41st Parallel in Cache, Morgan, Rich, Weber Counties; also the area in Box Elder County lying west of 112°20' longitude and north and east of Utah Highway #83
Zone 3A: That area from a point 2 miles north of Center Street in Smithfield to the Utah-Idaho State Line and 10 miles east and west from Highway #91
Zone 4: All other area west of Zones 3 and 3A in Box Elder County

Area 2: South section of Utah (Remaining Counties):
Zone 1: Davis County (south of 41st Parallel); Salt Lake County; Tooele County (northeast corner beginning at a point where the township line between Township 3 south and Township 4 south, Salt Lake Base Meridian, intersects the east boundary line of Tooele County and thence west along said township line to the southwest corner of Section 32, Township 3 south, Range 4 west, Salt Lake Base Meridian, thence north to the northwest corner of Section 17 of Township 3 south, Range 4 west, thence west to longitude 112.5°, thence north along the line of longitude 112.5° to the north line of Tooele County); Utah County (north of 40th Parallel):
Zone 1A: Ten miles either direction (east or west) from Interstate Highway #15, bounded on the north by the 41st Parallel and on the south by the 40th Parallel
Zone 1B: The balance of Zone 1 that lies in Davis, Salt Lake, and Utah Counties
Zone 1C: That portion of the remainder of Zone 1 that lies in Tooele County
Zone 2: Remainder of Counties and all portions of Counties not included in Zone 1 of the south section of Utah

GLAZIERS:
Area 1: Iron and Washington Counties
Area 2: Remaining Counties

PAINTERS:
Area 1: Box Elder, Cache, and Rich Counties; and the following Counties north of an east-west line from the north boundary of Farmington: Davis, Morgan, Summit, Tooele, and Weber Counties
Area 2: Remainder of State

LABORERS
Building Construction

Group 1: Laborers

Group 2: Powdermen and Drillers

Heavy and Highway Construction

Group 1: General Laborers

Group 2: Asphalt Raker; Sandblast Pot Tender; Gunite Nozzleman; Concrete Pump Head Hoseman; Signalman and Dumpman on concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., Compressor, Compactor, Jackhammer, Vibrator, Concrete Saw, Chain Saw and Concrete Cutting Torch); Pipelayer; Laser Instrument Operator; Refinery Tank and Vessel Cleaner; Sandblaster

Group 4: Air Track and similar Drills

Group 5: Powderman

Tunnel and Shaft Work

Group 1: Underground Laborers

Group 2: Brakeman; Chucktender; Dumpman; Powderman Tender; Puddler; Nipper; Tapman; Vibrator; Screedman

Group 3: Cutting Machine Operator; Drill Doctor; Finisher; Gunite Gunman; Miner; Powder Makeup Man; Spader and Tugger; Steelman; Gunite Groundman; Gunite Nozzleman; Gunite Rodman; Concrete Head Hoseman

Group 4: Shifter

POWER EQUIPMENT OPERATORS
BUILDING Construction

Group 1: Assistant to Engineer; Elevator Operators; Hydraulic Monitor; Material Loader or Conveyor Operators

Group 2: Air Compressor Operator; Concrete Mixer Operator (skip-type); Concrete Pump or Pumpcrete Gun Operator; Generator Operator (100 KW or over); Mixer Box Operator or similar (concrete or asphalt plant continuous mix); Pump Operator; Truck Crane Oiler

Group 3: Front End Loader (up to and including 1 cu. yds. struck M.R.C.); Hoist Operator - 1 drum; Slip Form Pumps

Group 4: Air Compressor Operator (2 or more compressors); Signalman; Small Rubber-tired Tractor; Small self-propelled Pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more); Concrete Conveyor, building site

Group 5: A-Frame Truck and Tugger Hoist; Fork Lift (construction job site); Kolman Loader and similar; Loader Operator (over 1 cu. yd. to and including 2 cu. yds. struck M.R.C.); McGinnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Ross Carrier or similar type; Small rubber-tired Tractor (with attachments, including Backhoe); Small rubber-tired Trenching Machine; Small Tractor with boom; Gradesetter

Group 6: Bridge Crane; Concrete Mixer Operator (paving or batch plant); Drilling Machine Operator (Well or Diamond); Dual Drum Mixers; Hoist Operator - 2 drums; Lull High-lift (40 ft. or similar); Roller Operator or self-propelled Compactors; Tractor Operator (Sheep's Foot and compacting equipment); Trenching Machine; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Self-propelled Compactor with or without Dozer

Group 7: Tractor Operator (Bulldozer or tractor-drawn Scraper or drag-type Shovel or boom attachment, up to and including D-7 or similar)

Group 8: Chicago Boom (including Stiff Leg and Sheer Pole); Concrete Batch Plant (multiple units); Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck M.R.C.); Self-propelled boom type Lifting Device (center mount) (10 ton capacity or less M.R.C.)

Group 9: Heavy Duty Repairman or Welder; Tractor Operator (Bulldozer or tractor-drawn Scraper or drag-type Shovel or Boom Attachment, larger than D-7 or similar)

Group 10: Motor Patrol

POWER RQUIPMENT OPERATORS (Cont'd)
Building Construction (Cont'd)

Group 11: Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck M.R.C.); Universal Equipment Operator (Shovel, Backhoe, Dragline, Derrick, Derrick Barge, Clamshell, Crane, Grade-all, etc.)(up to and including 5 cu. yds. struck M.R.C.); Self-propelled boom type Lifting Device (center mount); Tower Crane (Linden type or similar designs and capacity)

Group 12: Remote Controlled (over 12 cu. yds. struck M.R.C. up to 18 cu. yds. M.R.C.)

Group 13: Loader Operator (over 12 cu. yds. struck M.R.C. up to 18 cu. yds. M.R.C.)

Group 14: Operator of Helicopter (when used in erection work)

Group 15: Cranes over 125 tons

Heavy and Highway Construction

Group 1: Assistant to Engineer; Brakeman - Locomotive; Elevator Operator; Fireman; Asphalt Plant Fireman; Hydraulic Monitor; Material Loader or Conveyor Operator; Partsman - field; Repairman Tender - field

Group 2: Boxman, asphalt plant; Air Compressor Operator; Concrete Mixer Operator (skip type); Concrete Pump or Pumpcrete Gun Operator; Engineer, Dinky Operator; Generator Operator (100 KW or over); Mixer Box Operator or similar (concrete or asphalt plant continuous mix); Pump Operator; Screedman; Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Truck Crane Oiler (Assistant to Engineer)

Group 3: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper, multiple purpose; Front End Loader (up to and including 1 cu. yd. struck M.R.C.); Hoist Operator, 1 drum Line Master; Slip Form Pumps

Group 4: Batch Operator (asphalt plant); Air Compressor Operator (2 or more compressors); Concrete Conveyor, building site; Lube and Service engineer (mobile and grease rack); Motorman; Pavement Breaker Operator (Emsco and similar type); Shuttlecar; Signalman; Slurry Seal Machine or similar; Small rubber-tired Tractor; Small self-propelled pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more)

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction (Cont'd)

Group 5: A-Frame Truck and Tugger Hoist; Concrete Saws (self-propelled unit on streets, highways, airports and canals); Engineer - Locomotive; Forklift (construction jobsite); Gradesetter; Kolman Loader (and similar); McGinnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Pipe Bending Machine Operator; Pipe Cleaning Machine; Pipe Wrapping Machine; Power Jumbo Operator (setting slip forms, etc., in tunnels); Road Mixing Machine Operator; Ross Carrier or similar type; Small rubber-tired Trenching Machine; Small rubber-tired tractor (with attachments, including Backhoe; Small Tractor with boom; Surface Heater (self-propelled); Loader Operator (over 1 cu. yd. up to and including 2 cu. yds. "struck M.R.C.)

Group 6: Bridge Crane; Chip Box Spreader (Flaherty type and similar); Concrete Conveyor or Concrete Pump, truck or equipment mounted, boom length to apply; Concrete Mixer Operator (paving or batch plant); Concrete Pipe Floater Operator; Deck Engineer (Marine); Drilling Machine Operator (Well or Diamond); Drilling and Boring Machinery, horizontal and vertical (not to apply to waterliners, wagon drills, or jack hammers); Dual Drum Mixers; Elevating Grader Operator; Fuller Kenyon Pump and similar types; Heavy Duty Rotary Drill Rigs (such as Quarry Master, Joy Drills or equal); Hoist Operator - 2 drums; Lull High-lift (40 ft. or similar); Mechanical Burm, Curb and/or Curb and Gutter Machine, concrete or asphalt; Mechanical Finisher Operator (asphalt or concrete); Mine or Shaft Hoist; No-joint Pipe Laying Machine; Pavement Breaker; Pavement Breaker with Compressor combination; Pavement Breaker, truck mounted, Compressor combination; Refrigeration Plant; Roller Operator or self-propelled Compactor; Self-propelled Compactor (with multiple-propulsion power units); Self-propelled Pipeline Wrapping Machine Perault, CRC, or similar types); Self-propelled Compactor with or without Dozer; Slusher Operator; Tractor Operator (Sheep's Foot and Compacting Equipment); Tractor Compressor Drill Combination; Trenching Machine

Group 6-A: Side Boom Operator; Tractor Operator (Bulldozer or Tractor-drawn Scraper or Drag-type Shovel or Boom attachment, up to and including D-7 or similar)

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction (Cont'd)

Group 7: Asphalt Plant Engineer; Chicago Boom (including Stiff Leg and Sheer Pole); Combination Backhoe and Loader (3/4 cu. yds. or over M.R.C.); Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Do-more Loader and Adams Elegrader; Engineer, Crushing Plant; Euclid Loader and similar types; Loader Operator (over 2 cu. yds. up to and including 6 cu. yds. "struck" M.R.C.); Koehring Skooper (or similar)(up to 5 cu. yds. "struck" M.R.C.); Mechanical Trench Shield; Mucking Machine Operator Rubber-tired Scrapers (under 35 cu. yds. "Struck" M.R.C.); Saurman type Dragline (under 5 cu. yds. "struck" M.R.C.); Self-propelled Boom-type lifting device (center mount)(10-ton capacity or less M.R.C.); Self-propelled Elevating Grade Plane; Soil Stabilizer (P & H or equal); Tri Batch Paver; Tunnel Mole (or similar)

Group 7-A: Heavy Duty Repairman or Welder; Tractor Operator (Bulldozer or Tractor-drawn Scraper or Drag-type Shovel or boom attachment, larger than D-7 or similar); Rubber-tired Dozer

Group 8: Combination Mixer and Compressor (gunite); Highline Cableway Signalman; Motor Patrol; Tower Crane (Linden type or similar designs and capacity); D-10, Komatsu 455 and over

Group 9: DW-10, 20, etc. (Tandem Scrapers); Loader Operator (over 6 cu. yds. up to and including 12 cu. yds. "struck" M.R.C.); Highline Cableway Operator; Lift Slab Machine (Vagtborg and similar types); Locomotive (over 100 tons) (single or multiple units); Prestress Wire Wrapping Machine; Saurman-type dragline (5 cu. yds. and over "struck" M.R.C.); Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Tractor (Tandem Scrapers); Universal Equipment Operator (Shovel, Backhoe, Dragline, Derrick, Derrick Barge, Clamshell, Crane, Grade-all, etc.) (up to and including 5 cu. yds. "struck" M.R.C.); Hydraulic Backhoe, tractor mountied, rubber tired, ext., 3/4 yd. and over

Group 10: Automatic Concrete Slip Form Paver; Koehring Skooper (or similar)(5 cu. yds. and over "struck M.R.C.); Multiple-propulsion Power Unit Earthmovers (up to and including 75 cu. yds. "struck" M.R.C.); Power Equipment with shovel-type controls (over 5 cu.yds. up to and including 7 cu. yds. "struck" M.R.C.); Remote-controlled Cranes and Derricks; Rubber-tired Scrapers (35 cu. yds. and over "struck" M.R.C.); Self-propelled Boom-type lifting device (center mount)(over 25 tons M.R.C.); Slip Form Paver (concrete or asphalt); Sub-grader (automatic Sub-grader - Fine Grader, CMI or similar); Tandem Tractors; Tower Cranes Mobile

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction (Cont'd)

Group 10-A: Loader Operator (over 12 cu. yds. "struck" M.R.C. up to 18 cu. yds. M.R.C.); Multi-purpose Earthmoving Machines (2 or more scrapers)(over 75 cu .yds. "struck" M.R.C.); Power Shovels and Draglines (over 7 cu. yds. "struck" M.R.C.); Holland Loader (60" belt)

Group 10-B: Operator of Helicopter (when used in erection work); Loader (18 cu. yds. and over)

Group 11: Cranes over 125 tons

STEEL ERECTION

Group 1: Assistant to Engineer (Oiler)

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 KW or over)(structrual steel or tank erection only); Assistant to Engineer (truck crane oiler)

Group 3: Compressors, Generators and/or Welding Machines or combination (2 to 6) (structural steel or tank erection only); Deck Engineer; Forklift; Signalman (using mechanical equipment)

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy Duty Repairman - Welder

Group 5: Dual Purpose A-frame or Boom Truck; Boom Cat; Chicago Boom; Crawler Cranes and Trucks Cranes (15 tons M.R.C. or less); Single drum Hoist; Self-propelled Boom-type lifting device (center mount)(10 ton capacity or less M.R.C.); Tugger Hoist; Overhead Cranes (15 tons M.R.C. or less)

Group 6: Crawler Cranes and Trucks Cranes (over 15 tons M.R.C.); Cary Lift, Campbell or similar; Derricks; Gantry Rider (or similar equipment); Highline Cableway; Two or more drum Hoist; Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Tower Cranes Mobile (including rail mounted); Universal Liebher and Tower Cranes (and similar types); Overhead Cranes (over 15 tons M.R.C.)

Group 7: Self-propelled boom-type lifting device (center mount) (over 25 tons)

Group 8: Cranes (over 125 tons)

Group 9: Operator of Helicopter

POWER EQUIPMENT OPERATORS (Cont'd)
PILEDRIVING

Group 1: Deckhand; Fireman; Oiler

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler (Assistant to Engineer)

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Forklift Operator

Group 2-C: Compressor Operator (over 2); Generator; Pumps; Welding Machine (powered other than by electricity)

Group 2-D: A-Frames

Group 3: Deck Engineer; Self-propelled boom-type lifting device (center mount) (10 ton capacity or less M.R.C.)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operator or Piledriving Rigs, skid or floating and Derrick Barges; Operator of diesel or gasoline powered Crane Pilderiver (without boiler) (up to and including 1 cu. yd. rating); Truck Crane Operator (up to and including 25 tons) (hoisting material only); Operating Engineer in lieu of Assistant to Engineer tending boiler or compressor attached to Crane Piledriver; Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler)(over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered Crawler or Universal type Driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work); Self-propelled boom-type lifting device (center mount) (over 25 tons)

Group 6: Cranes (over 125 tons)

UNDERGROUND and SHAFT WORK:
Underground Work: Employees working underground shall receive $0.30 per hour in addition to their straight-time hourly rate.

Shaft Work: Employees working within Shafts, Stopes and Raises shall receive $0.50 per hour in addition to their straight-time hourly rate

AREA DESCRIPITONS
LABORERS
(Heavy and Highway Construction)

POWER EQUIPMENT OPERATORS

TRUCK DRIVERS

AREA 1: All area included in the description defined below which is based upon township and range lines as referenced to the Salt Lake City Base and Meridian:

Commencing at the intersection of the Utah/Nevada border and the Southerly line of township 35 south;
Thence easterly to the S.E. corner of township 35 south, range 17 west;
Thence northerly to the S.E. corner of township 34 south, range 17 west;
Thence easterly to the S.E. corner of township 34 south, range 16 west;
Thence northerly to the S.E. corner of township 30 south, range 16 west;
Thence easterly to the S.E. corner of township 30 south, range 15 west;
Thence northerly to the S.E. corner of township 25 south, range 15 west;
Thence easterly to the S.E. corner of township 25 south, range 14 west;
Thence northerly to the S.E. corner of township 24 south, range 14 west;
Thence easterly to the S.E. corner of township 24 south, range 13 west;
Thence northerly to the S.E. corner of township 23 south, range 13 west;
Thence easterly to the S.E. corner of township 23 south, range 12 west;
Thence northerly to the S.E. corner of township 18 south, range 12 west;
Thence easterly to the S.E. corner of township 18 south, range 11 west;
Thence northerly to the S.E. corner of township 16 south, range 11 west;
Thence easterly to the S.E. corner of township 16 south, range 10 west;
Thence northerly to the S.E. corner of township 15 south, range 10 west;
Thence easterly to the S.E. corner of township 15 south, range 9 west;
Thence northerly to the S.E. corner of township 14 south, range 9 west;

AREA DEFINITIONS (Cont'd)

AREA 1: (Cont'd)

Thence easterly to the S.E. corner of township 14 south, range 8 west;
Thence northerly along the easterly line of range 8 west, crossing the Salt Lake Base-Line to the intersection of the easterly line of range 8 west and the northerly border of Utah;
Thence easterly along the northerly border of Utah crossing the Salt Lake Meridian to the Utah/Idaho/Wyoming border;
Thence southerly along the Utah/Wyoming border;
Thence easterly along the Utah/Wyoming border to the intersection of the Utah/Wyoming border and Longitude 111 degrees west;
Thence southerly along Longitude 111 degrees west crossing the Salt Lake Base Line to the intersection of Longitude 111 degrees west and the southerly line of township 4 south;
Thence easterly along the southerly line of township 4 south to the S.E. corner of township 4 south, range 17 east;
Thence northerly to the S.E. corner of township 1 south, range 17 east;
Thence easterly along the southerly line of township 1 south to the intersection of the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the intersection of the Utah/Colorado border and the southerly line of township 7 south;
Thence westerly along the southerly line of township 7 south to the S.W. corner of township 7 south, range 20 east;
Thence southerly to the S.E. corner of township 8 south, range 19 east
Thence westerly along the southerly line of township 8 south to the S.E. corner of township 8 south, range 12 east;
Thence southerly along the easterly line of range 12 east to the S.E. corner of township 20 south, range 12 east;
Thence westerly along the southerly line of township 20 south to the S.E. corner of township 20 south, range 3 east;
Thence southerly along the easterly line of range 3 east to the S.E. corner of township 27 south, range 3 east;
Thence westerly to the intersection of the southerly line of township 27 south and the Salt Lake Meridian, thence southerly along the Salt Lake Meridian to the intersection of the Salt Lake Meridian and the southerly line of township 39 south;
Thence westerly crossing the Salt Lake Meridian to the S.E. corner of township 39 south, range 2 west;

AREA DEFINITIONS (Cont'd)

AREA 1: (Cont'd)

Thence southerly to the S.E. corner of township 41 south, range 2 west;
Thence westerly to the S.E. corner of township 41 south, range 3 west;
Thence southerly along the easterly line of range 3 west to the Utah/Arizona border;
Thence westerly along the Utah/Arizona border to the Utah/Arizona/Nevada border;
Thence northerly along the Utah/Nevada border to the point of beginning. Commencing at the intersection of the Utah/Colorado border to the southerly line of township 34 south;
Thence westerly to the S.W. corner of township 34 south, range 21 east;
Thence northerly to the S.E. corner of township 29 south, range 21 east;
Thence westerly to the S.W. corner of township 29 south, range 19 east;
Thence northerly to the N.W. corner of township 23 south, range 19 east;
Thence easterly to the N.W. corner of township 23 south, range 22 east;
Thence northerly to the N.W. corner of township 21 south, range 22 east;
Thence easterly to the N.E. corner of township 21 south, range 24 east;
Thence southerly to the N.E. corner of township 31 south, range 24 east;
Thence easterly along the northerly line of township 31 south, to the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the point of beginning.

AREA 2: All areas not included in Area 1 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))

[FR Doc. 82-23982 Filed 9-2-82; 8:45 am]
BILLING CODE 4510-27-C

federal register

Friday
September 3, 1982

Part III

Department of Health and Human Services

Food and Drug Administration

Nailbiting and Thumbsucking Deterrent Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 358

[Docket No. 80N-0146]

Nailbiting and Thumbsucking Deterrent Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) nailbiting and thumbsucking deterrent drug products are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products and the public comment on an advance notice of proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs on the proposed regulation by November 2, 1982. New data by September 3, 1983.

Comments on the new data by November 3, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Comments on the agency's economic impact determination by January 2, 1983.

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. New data and comments on new data should also be addressed to the Dockets Management Branch.

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 October 17, 1980 (45 FR 69122) FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC nailbiting and thumbsucking deterrent drug products, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by January 15, 1981. Reply comments in response to comments filed in the initial comment period could be submitted by February 16, 1981.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information.

The advance notice of proposed rulemaking, which was published in the **Federal Register** on October 17, 1980 (45 FR 69122), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 30.10). Similarly, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) the FDA states for the first time its position on the establishment of a monograph for OTC nailbiting and thumbsucking deterrent drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC nailbiting and thumbsucking deterrent drug products.

In response to the advance notice of proposed rulemaking, one consumer submitted a comment. A copy of the comment received is also on public display in the Dockets Management Branch.

This proposal would amend Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations in Part 358 by adding Subpart C. This proposal constitutes FDA tentative adoption of the Panel's conclusions and recommendations on OTC nailbiting and thumbsucking deterrent drug products as modified on the basis of the comment received and the agency's independent evaluation of the Panel's report. Modifications have ben made for clarity and regulatory accuracy and are reflected in this tentative final monograph. The agency emphasizes that no nailbiting and thumbsucking deterrent active ingredients have been determined to be generally recognized as safe and effective and not misbranded. However, the agency is proposing Category I labeling in this document in the event that data are submitted which result in the upgrading of any ingredient to monograph status in the final rule.

FDA published in the **Federal Register** of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph (46 FR 47738).

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recongized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register.** On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application. Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers

are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC nailbiting and thumbsucking deterrent drug products (published in the **Federal Register** of October 17, 1980 (45 FR 69122)), the agency suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products will have to be reformulated to comply with the monograph. Reformation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and reformulate their products and have them in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

I. The Agency's Tentative Conclusions on the Comment

One comment questioned how the government could become involved in such a trivial matter as proposing a rule on nailbiting and thumbsucking deterrent drug products. The comment requested that the agency not issue this rule.

As part of the agency's review of all OTC drug products, the Panel considered the safety and effectiveness of many classes of OTC miscellaneous external drug products. Although nailbiting and thumbsucking deterrent drug products affect only a small group of consumers, the agency believes that all marketed OTC drug products should be both safe and effective and not misbranded for their intended use. Accordingly, the agency is continuing with this rulemaking proceeding.

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions

1. *Summary of ingredient categories.* The agency has reviewed the two claimed active ingredients, denatonium benzoate and sucrose octaacetate, submitted to the Panel and concurs with the Panel's categorization of these ingredients in Category III.

The Panel placed denatonium benzoate (0.35 percent or less) and sucrose octaacetate (6 percent or less) in Category III because the available data were insufficient to permit final classification. The Panel concluded that both denatonium benzoate and sucrose octaacetate are safe for adults and children 4 years of age and older, but there are insufficient data to determine their effectiveness as nailbiting and thumbsucking deterrent drug products. FDA concurs with the Panel's Category III classification of denatonium benzoate and sucrose octaacetate as single active ingredients.

The Panel recognized the combination of denatonium benzoate and sucrose octaacetate as a Category III combination because the perception of a bitter taste may vary from person to person and from ingredient to ingredient. FDA agrees with the Panel's Category III classification because there are insufficient data to establish the effectiveness of the combination.

For the convenience of the reader, the following table is included as a summary of the categorization of nailbiting and thumbsucking deterrent active ingredients:

Ingredient	Categorization
Denatonium benzoate	III.
Sucrose octaacetate	III.

2. *Testing of Category II and Category III conditions.* The Panel recommended testing guidelines for nailbiting and thumbsucking deterrent drug products (45 FR 69127). The agency is offering these guidelines as the Panel's recommendations without adopting them or making any formal comment on them. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any nailbiting and thumbsucking deterrent ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes in the Panel's Recommendations

FDA has considered the comment and other relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in the summary below.

1. In accord with the monograph format currently being used in other tentative final monographs, the agency proposes to combine the Panel's recommended indications in § 358.250(b)(1), (2), and (3) (redesignated § 358.250(b)) to read as follows: "For use as a" (select one of the following: "nailbiting," "thumbsucking," or "nailbiting and thumbsucking") "deterrent in persons aged 4 years and older."

In addition, the agency also proposes to combine the Panel's recommended directions in § 358.250(d)(1), (2), and (3) (redesignated § 358.250(d)) to read as follows in the tentative final monograph: "Apply to the" (select one of the following: "nail," "thumb," or "nail or thumb") "after washing hands and at bedtime."

2. The Panel recommended that the directions for use in § 358.250(d) be followed by the phrase "or as directed by a physician." Believing that the word

"doctor" is more commonly used and better understood by consumers, the agency is substituting the word "doctor" for "physician" in this phrase in the tentative final monograph. If the word "doctor" is adopted in the final monograph, the agency will use this language in othere final monographs and other applicable OTC drug regulations and will propose amendments to those regulations accordingly. Public comment on this proposed change in labeling language is invited.

3. Based on a review of the labels of products submitted to the Panel, the warning in § 358.250(c)(2) has been expanded to include the terms "flammable" and "heat." The agency believes that this additional information provides a more informative warning and proposes that the warning in § 358.250(c)(2) read as follows in the tentative final monograph: "Flammable, keep away from heat or flame."

The agency has examined the economic consequences of this proposed rulemaking and has determined that it does not require either a Regulatory Impact analysis, as specified in Executive Order 12291, or a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, nailbiting and thumbsucking deterrent drug products containing denatonium benzoate and sucrose octaacetate may continue to be marketed while additional testing is being performed. If neither of these ingredients is elevated to Category I status, then there will be no active ingredients to include in a final monograph, and these products will have to be removed from the market. If either of these ingredients is elevated to Category I status, some relabeling will be necesary because the agency has made some minor revisions in the Panel's recommended labeling. Manufacturers will have up to 12 months to revise their product labeling. In most cases, this will be done at the next printing so that minimal costs should be incurred. Thus, the impact of a final rule appears to be minimal whether or not the ingredients are elevated to Category I status. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC nailbiting and thumbsucking deterrent drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC nailbiting and thumbsucking deterrent drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on nailbiting and thumbsucking deterrent drug products, a period of 120 days from the date of publication of this proposed rulemaking in the **Federal Register** will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has careully considered the potential environmental effects of this proposal and has concluded that the action will not have significant impact on the human environment and an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding, contained in an environmental assessment (under 21 CFR 25.31, proposed in the **Federal Register** of December 11, 1979; 44 FR 71742), may be seen in the Dockets Management Branch, Food and Drug Administration.

List of Subjects in 21 CFR Part 358

Over-the-counter drugs, Skin bleaching agents, Wart removers, Nailbiting and thumbsucking deterrents, Ingrown toenail relief.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 358 by adding new Subpart C, to read as follows:

PART 358—MISCELLANEOUS EXTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

* * * * *

Subpart C—Nailbiting and Thumbsucking Deterrent Drug Products

Sec.
358.201 Scope.
358.203 Definitions.
358.210 Nailbiting and thumbsucking deterrent active ingredients. [Reserved]
358.250 Labeling of nailbiting and thumbsucking deterrent drug products.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704).

Subpart C—Nailbiting and Thumbsucking Deterrent Drug Products

§ 358.201 Scope.

(a) An over-the-counter nailbiting and thumbsucking deterrent drug product in a form suitable for topical administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this subpart in addition to each of the general conditions established in § 330.1.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 358.203 Definitions.

As used in this subpart:

(a) *Nailbiting.* The habitual biting of the fingernails.

(b) Thumbsucking. The habitual sucking of a thumb.

§ 358.210 Nailbiting and thumbsucking deterrent active ingredients. [Reserved]

§ 358.250 Labeling of nailbiting and thumbsucking deterrent drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "nailbiting deterrent," "thumbsucking deterrent," or "nailbiting-thumbsucking deterrent."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the following: "For use as a" (select one of the following: "nailbiting," "thumbsucking," or "nailbiting and thumbsucking") "deterrent in persons aged 4 years and older."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) "Avoid contact with eyes."

(2) "For topical use only."

(3) *For products containing flammable vehicles.* "Flammable, keep away from heat or flame."

(d) *Directions.* The labeling of the product contains one of the following directions under the heading "Directions," "Apply to the" (select one

of the following: "nail," "thumb," or "nail or thumb") "after washing hands and at bedtime or as directed by a doctor."

Interested persons may, on or before November 2, 1982, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before January 2, 1983. Three copies of all comments, objections, and request are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register**.

Interested persons, on or before September 3, 1983, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before November 3, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on November 3, 1983. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register**, unless the Commissioner finds good cause has been shown that warrants earlier consideration.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Dated: August 9, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82–24075 Filed 9–2–82; 8:45 am]

BILLING CODE 4160–01–M

federal register

Friday
September 3, 1982

Part IV

Department of Health and Human Services

Food and Drug Administration

Wart Remover Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 358

[Docket No. 80N-0238]

Wart Remover Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemeking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) wart remover drug products are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products and the advance notice of proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs on the proposed regulation by November 2, 1982. New data by September 3, 1983. Comments on the new data by November 3, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Written comments on the agency's economic impact determination by January 3, 1983.

ADDRESS: Written comments, objections, or requests for oral hearing to the Dockets Management Branch (formerly the Hearing Clerk's Office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. New data and comments on new data should also be addressed to the Dockets Management Branch.

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 October 3, 1980 (45 FR 65609), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC wart remover drug products, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products, the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by January 2, 1981. Reply comments could be submitted by February 2, 1981, in response to comments filed in the initial comment period.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information.

The advance notice of proposed rulemaking, which was published in the **Federal Register** on October 3, 1980 (45 FR 65609), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarly, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) the FDA states for the first time its position on the establishment of a monograph for OTC wart remover drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC wart remover drug products.

No comments were received in response to the advance notice of proposed rulemaking. This proposal would amend Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations in Part 358 (as set forth elsewhere in this issue of the **Federal Register**) by adding Subpart B. This proposal constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC wart remover drug products as modified on the basis of the agency's independent evaluation of the Panel's report. Some modifications have been made for clarity and are reflected in this tentative final monograph.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register.** On or after the date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application. Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC wart remover drug products (published in the **Federal Register** of October 3, 1980 (45 FR 65609)), the agency had suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products will have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective

drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and have their products in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmongraph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

FDA published in the **Federal Register** of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph (46 FR 47738).

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "CategoryI," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

I. The Agency's Tentative Conclusions on the Comments

No comments were received by the agency on the advance notice of proposed rulemaking for OTC wart remover drug products.

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions

1. *Summary of ingredient categories.* The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and concurs with the Panel's categorization of salicylic acid in concentrations of 5 to 17 percent in a collodion vehicle in Category I. The Panel placed benzocaine, camphor, castor oil, iodine (iodine sublimed), and menthol in Category II because it was not able to locate nor was it aware of data demonstrating the safety and effectiveness of these ingredients when used as OTC wart remover active ingredients. The agency also is not aware of any such data and, therefore, concurs with the Panel's classification of these ingredients.

The Panel placed glacial acetic acid, ascorbic acid, calcium pantothenate, and lactic acid in Category III because available data were insufficient to permit final classification. The Panel concluded that glacial acetic acid is safe in concentrations up to 11 percent, but there are insufficient data available to determine its effectiveness as a wart remover active ingredient. Although ascorbic acid, calcium pantothenate, and lactic acid were considered safe, there were insufficient data available to establish their effectiveness as wart remover active ingredients. FDA concurs with the Panel's classification of these ingredients.

The Panel placed the following combinations in Category III: (1) Salicylic acid (5 to 17 percent) with lactic acid (5 to 17 percent) in a collodion vehicle; (2) salicylic acid (5 to 17 percent with glacial acetic acid (11 percent) in a collodion vehicle; and (3) ascorbic acid (0.16 percent) with calcium pantothenate (0.20 percent).

The Panel concluded that lactic acid does not contribute to the effectiveness of combinations of salicylic and lactic acids and that salicylic acid is the active ingredient. The Panel also concluded that data are needed to demonstrate that lactic acid contributes to the increased effectiveness of the combination over that of salicylic acid alone in order to establish Category I status. Likewise, the Panel concluded that there is insufficient evidence to show that the addition of glacial acetic acid to salicylic acid increases the effectiveness of combinations of these ingredients. Therefore, data are needed to demonstrate that glacial acetic acid contributes to the increased effectiveness of the combination over that of salicylic acid alone in order to establish Category I status. The Panel also concluded that data are needed to demonstrate the contribution of the individual active ingredients for combinations of ascorbic acid (0.16 percent) and calcium pantothenate (0.20 percent) in order to establish Category I status.

FDA concurs with the Panel's classification of these combinations in Category III and agrees with the need for data to demonstrate individual ingredient contribution to the effectiveness of the combinations in order to establish Category I status.

For the convenience of the reader, the following table is included as a summary of the categorization of wart remover active ingredients:

Wart remover active ingredients	Panel	Agency
Acetic acid	III	III.
Acetic acid, glacial	III	III.
Ascorbic Acid	III	III.
Benzocaine	II	II.
Calcium pantothenate	III	III.
Camphor	II	II.
Castor oil	II	II.
Iodine (iodine, sublimed)	II	II.
Lactic acid	III	III.
Menthol	II	II.
Salicylic acid	I	I.

2. *Testing of Category II and Category III conditions.* The Panel recommended testing guideline for wart remover drug products (45 FR 65616). The agency is offering these guidelines as the Panel's recommendations without adopting them or making any formal comment on them. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety of effectiveness of any wart remover ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the agency's changes in the Panel's Recommendations

FDA has considered all relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in the summary below.

(1) In its recommended labeling for OTC wart remover drug products, the Panel included statements pertaining to limitation of use under both "Warnings," in § 358.150(c)(1)(iii), and *"Directions,"* in § 358.150(d). The warning statement reads, "If wart shows no improvement after 12 weeks of treatment, see your doctor." The directions for use read in part, "* * * Continue treatment until wart disappears, not to exceed 12

weeks." the agency believes that it is more useful to the consumer for both statments relating to limitation of use to appear in one place on the label. Because of the nature of the information conveyed, the agency believes it is more appropriate to include these statements under *"Directions."* Therefore, the agency proposes that the statement formerly included in the monograph as § 358.150(c)(1)(iii) be deleted and § 358.150(d) be expanded as follows: "* * * continue treatment until wart disappears, not to exceed 12 weeks. If no improvement is seen after 12 weeks, see a doctor."

(2) The agency has also made some changes in monograph format to conform to other OTC drug monographs and has combined several of the Panel's recommended label warnings, and made some changes in the wording of these warnings for clarity.

The agency has examined the economic consequences of this proposed rulemaking and has determined that it does not require either a Regulatory Impact Analysis, as specified in Executive Order 12291, or a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, it would leave in Category I the main ingredient used in OTC wart remover drug products. Some reformulation and minor relabeling would be necesary, but resulting costs would be minimal. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC wart remover drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC wart remover drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on wart remover drug products, a period of 120 days from the date of publication of this proposed rulemaking in the **Federal Register** will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined that under 21 CFR 25.24(d)(9) (proposed in the **Federal Register** of December 11, 1979; 44 FR 71742) this proposal is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 358

Over-the-counter drugs, Skin bleaching agents, Wart removers, Nailbiting and thumbsucking deterrents, Ingrown toenail relief.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–4042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 358 (as set forth elsewhere in this issue of the **Federal Register**) by adding new Subpart B, to read as follows:

PART 358—MISCELLANEOUS EXTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

* * * * *

Subpart B—Wart Remover Drug Products

Sec
358.101 Scope
358.103 Definition.
358.110 Wart remover active ingredient.
358.150 Labeling of wart remover drug products.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704).

Subpart B—Wart Remover Drug Products

§ 358.101 Scope.

(a) An over-the-counter wart remover drug product in a form suitable for topical administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this subpart in addition to each of the general conditions established in § 330.1.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 358.103 Definition.

As used in this subpart:

Wart remover drug product. A drug product applied to common or plantar warts to aid in their removal.

§ 358.110 Wart remover active ingredient.

The active ingredient and its concentration in the product is as follows: Salicylic acid 5 to 17 percent in a collodion vehicle.

§ 358.150 Labeling of wart remover drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "wart remover."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one or both of the following phrases:

(1) "For the removal of common warts. The common wart is easily recognized by the rough 'cauliflower-like' appearance of the surface."

(2) "For the removal of plantar warts on the bottom of the foot. The plantar wart is recognized by its location only on the bottom of the foot, its tenderness, and the interruption of the footprint pattern.

(c) *Warnings.* The labeling of the product contains the following warnings under the heading, "Warnings":

(1) "Do not use if you are a diabetic or have poor blood circulation because serious complications may result."

(2) "Do not use on moles, birthmarks, warts with hair growing from them, genital warts, or warts on the face or mucous membranes."

(3) "Discontinue use if excessive irritation occurs."

(4) "Do not use near eyes. If product accidentally comes in contact with eyes, flush eyes with water to remove film and continue to flush with water 15 minutes."

(5) "Highly flammable, keep away from heat, fire, or flame and store at room temperature."

(6) "Keep bottle tightly capped. Do not inhale."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions," followed by "or as directed by a doctor":

"Wash affected area and soak wart for 5 minutes. Gently remove softened areas of the wart by rubbing with a wash cloth or emery board. Do not rub hard enough to cause bleeding. Apply product once daily to the wart only. Keep product away from

surrounding skin preferably by encircling the wart with a ring of petrolatum. Continue treatment until wart disappears, not to exceed 12 weeks. If no improvement is seen after 12 weeks, see a doctor."

Interested persons may, on or before November 2, 1982 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before January 3, 1983. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register.**

Interested persons, on or before September 3, 1982, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before November 3, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on November 3, 1983. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register** unless the Commissioner finds good cause has been shown that warrants earlier consideration.

Dated: July 29, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-24076 Filed 9-2-82; 8:45 am]

BILLING CODE 4160-01-M

federal register

Friday
September 3, 1982

Part V

Department of Health and Human Services

Food and Drug Administration

Skin Bleaching Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 358

[Docket No. 78N-0065]

Skin Bleaching Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) skin bleaching drug products (products that bleach or otherwise lighten limited areas of brownish skin through suppression of melanin pigment formation within the skin cells) are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of Advisory Review Panel on OTC Miscellaneous External Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs on the proposed regulation by November 2, 1982. New data by September 3, 1983. Comments on the new data by November 3, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Written comments on the agency's economic impact determination by January 3, 1983.

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. New data and comments on new data should also be addressed to the dockets Management Branch.

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 November 3, 1978 (43 FR 51546) FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC skin bleaching drug products, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by February 1, 1979. Reply comments in response to comments filed in the initial comment period could be submitted by March 5, 1979.

In a notice published in the **Federal Register** of March 21, 1980 (45 FR 18404), the agency advised that it had reopened the administrative record for OTC skin bleaching drug products to allow for consideration of data and information that had been filed in the Dockets Management Branch after the date the administrative record previously had officially closed. The agency concluded that any new data and information filed prior to March 21, 1980, should be available to the agency in developing a proposed regulation in the form of a tentative final monograph.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information. Data and information received after the administrative record was reopened also have been put on display in the Dockets Management Branch.

The advance notice of proposed rulemaking, which was published in the **Federal Register** on November 3, 1978 (43 FR 51546), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarly, the present document is designated in the OTC drug review regulation as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) the FDA states for the first time its position on the establishment of a monograph for OTC skin bleaching drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC skin bleaching drug products.

In response to the advance notice of proposed rulemaking, one drug manufacturers' association and five manufacturers submitted comments. Copies of their comments are on public display in the Dockets Management Branch.

This proposal to establish Part 358 (21 CFR Part 358) constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC skin bleaching drug products, as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them.

FDA published in the **Federal Register** of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph (46 FR 47738).

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register.** On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered

for introduction into interstate commerce unless they are the subject of an approved new drug application. Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC skin bleaching drug products (published in the **Federal Register** of November 3, 1978 (43 FR 51546)), the agency suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Cateogory II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products will have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and reformulate their products and have them in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

I. The Agency's Tentative Conclusions on the Comments

A. General Comments on Skin Bleaching Drug Products

1. One comment stated that the OTC Panel lacked the jurisdiction to make recommendations with respect to cosmetic claims and that the legal standards applicable to cosmetic claims are different from those applicable to drug claims.

The agency agrees that the legal standards applicable to cosmetic claims are different from those applicable to drug claims and that the Panel's jurisdiction extended only to drug claims for skin bleaching products and not to cosmetic claims. The distinction between drug and cosmetic claims is discussed further in comment 18 below.

2. One comment contended that OTC drug monographs are interpretive, as opposed to substantive, regulations. The comment referred to statements on this issue submitted earlier to other OTC rulemaking proceedings.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products, published in the **Federal Register** of May 11, 1972 (37 FR 9464) and in paragraph 3 of the preamble to the tentative final monograph for antacid drug products, published in the **Federal Register** of November 12, 1973 (38 FR 31260). FDA reaffirms the conclusions stated there. Subsequent court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. See, e.g., *National Nutritional Foods Association* v. *Weinberger*, 512 F. 2d 688, 696–98 (2d Cir. 1975) and *National Association of Pharmaceutical Manufacturers* v. *FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *aff'd*, 637 F. 2d 887 (2d Cir. 1981).

B. Comments on Hydroquinone

3. One comment requested that the 1.5- to 2-percent hydroquinone concentrations recommended in § 358.10 be increased to concentrations of 1.5 to 4 percent. The comment argued that the Panel itself concluded that the eye damage reported from industrial exposure and the disfiguring skin effects observed after prolonged use of high concentrations and exposure to the sun have not been reported for products containing concentrations under 5 percent hydroquinone. The comment cited several references reviewed by the Panel in support of its argument (Refs. 1 through 5) and stated that 4 percent hydroquinone skin bleaching products have been marketed for years without consumer complaints of any effects of the kind reported from the use of 5 percent or greater concentrations.

The agency has reviewed the available data and agrees with the Panel and the comment that the eye and skin damage cited in the comment have not been reported from use of concentrations of hydroquinone less than 5 percent. However, the agency does not agree with the comment's request to increase the concentration to 4 percent because it has been demonstrated that concentrations of hydroquinone between 2 and 4 percent are not significantly more effective and pose a significantly higher risk of adverse effects. Arndt and Fitzpatrick (Ref. 6) compared 2 and 5 percent hydroquinone cream in 56 patients with hyperpigmented skin. They concluded that the 2-percent cream was as effective but caused less primary irritation than the 5-percent cream.

In a study by Spencer (Ref. 4) cited by the comment in support of the the safety of hydroquinone, derivatives of hydroquinone were used in a clinical study of 142 white and 6 black subjects for a period of 2 months. No significant reactions or sensitization developed using concentrations of 1, 4, or 7 percent. The agency believes that this study cannot be used to support the safety of hydroquinone because it involved derivatives of hydroquinone, not hydroquinone itself. The derivatives of hydroquinone used in the study were the tertiary butyldimethyl ether of hydroquinone and the monotertiary butylmonomethyl ether of hydroquinone.

Significantly, Spencer (Ref. 4) also reported that using 5-percent hydroquinone, alone or in combination with the tertiary butyldimethyl ether of hydroquinone, was effective in a 4-month study of 53 white and 45 black males who completed the study. However, the concentration of 5 percent hydroquinone was reduced to 1.5 and 2 percent after 3 weeks because of contact dermatitis in 33 of the original 122 subjects in the study.

Spencer (Ref. 5) studied the effects of 2, 3, and 5 percent hydroquinone in 94 white and 43 black men. Although there was only a slight increase in the number of patients in whom depigmentation developed, there was a dramatic increase in the number of inflammatory reactions as the concentrations increased.

With respect to the comment's argument regarding the lack of consumer complaints, the agency believes that market experience alone is not sufficient evidence of safety in light of the available data.

The agency concurs with the Panel that 1.5 to 2 percent hydroquinone is safe and effective for use as a skin-bleaching agent when used over limited areas of the body. The agency sees no reason to permit an increase in concentration when the 2-percent concentration is effective because the increased risk of adverse effects likely to occur with concentrations above 2 percent hydroquinone would not be offset by a sufficient proven increase in effectiveness.

References

(1) Stern, G. S., et al., "Further Chronic Toxicity Studies of Hydroquinone," *Federation Proceedings*, 9:121–122, 1950.

(2) Lang, S., N. R. Brewer, and A. J. Carlson, "Chronic Studies of Effect of Hydroquinone on Man," *Federation Proceedings*, 9:74, 1950.

(3) Findlay, G. H., J. G. L. Morrison, and I. W. Simson, "Exogenous Ochronosis and Pigmented Colloid Milium from Hydroquinone Bleaching Cream," *British Journal of Dermatology*, 93:613–622, 1975.

(4) Spencer, M. C., "Hydroquinone Bleaching," *Archives of Dermatology*, 84:131–134, 1961.

(5) Spencer, M. C. "Topical Use of Hydroquinone for Depigmentation," *Journal of the American Medical Association*, 194:962–964, 1965.

(6) Arndt, K. A., and T. B. Fitzpatrick, "Topical Use of Hydroquinone as a Depigmenting Agent," *Journal of the American Medical Association*, 194:965–967, 1965.

4. One comment requested that the monograph for skin bleaching drug products be amended to require that any product containing hydroquinone as a skin bleaching agent contain a stabilizer to retard the oxidation of the hydroquinone and thus maintain the potency of the product.

The agency points out that the Panel recognized that the ease of oxidation of hydroquinone is an important factor in reducing its effectiveness as a skin-lightening agent. The Panel recommended two methods to reduce the oxidation of hydroquinone: (1) Packaging of the product in a small-sized tube (one-half to one ounce) with a small opening to minimize the exposure of the ointment surface to air, or (2) the use of a stabilizing agent such as sodium bisulfite.

The agency does not disagree with the Panel's suggestions for stabilizing hydroquinone products. However, questions relating to the stability of drug products are more appropriately addressed under the regulations for current good manufacturing practice (CGMP) for finished pharmaceuticals in Part 211 (21 CFR Part 211). Under these regulations, marketed drug products are required to meet applicable standards of identity, strength, quality, and purity at the time of use. To insure stability, drug products are required by § 211.137 to bear an expiration date which is determined by appropriate testing described in § 211.166. In the **Federal Register** of September 29, 1978 (43 FR 45088), FDA proposed a regulation that would grant an exemption from required expiration dating for OTC human drug products that are marketed without dosage limitations and are stable for at least 3 years as supported by appropriate stability data. A final regulation has not been published yet, however. Because hydroquinone skin bleaching products must meet the stability requirements of the CGMP regulations in Part 211, FDA has no objection to the addition of a stabilizer to skin bleaching drug products containing hydroquinone. However, FDA believes that there is no basis in the record to establish in the monograph a requirement that skin bleaching drug products contain a stabilizer.

5. One comment stated that the Panel's statement that "prolonged use of high concentrations (5 percent or more) of hydroquinone with exposure to the sun may produce disfiguring effects" is potentially misleading and should be deleted. The comment argued that the Panel based its statement upon reports of disfiguring effects in a single study by Findlay, Morrison, and Simson (Ref. 1) while a similar study by Arndt and Fitzpatrick (Ref. 2) reported no such effects, even though a 5-percent concentration was used.

The agency agrees with the Panel's view that high concentrations of hydroquinone with exposure to the sun may produce disfiguring effects. This fact was substantiated by Findlay, Morrison, and Simson (Ref. 1), who documented the pathologic changes in 35 cases of hydroquinone damage to the dermis of South African women. Damage followed the prolonged use (2 years and over) of 6 to 8 percent hydroquinone bleaching creams. The Arndt and Fitzpatrick study (Ref. 2) is not comparable to the Findlay, Morrison, and Simson study (Ref. 1) because Arndt and Fitzpatrick used substantially lower concentrations of hydroquinone (2 and 5 percent) and for lesser periods of time (1 to 3 months with treatment discontinued if no effect was seen after 3 months). Additionally, patients were instructed to avoid sunlight. During the summer months patients were advised to use a sunscreen (15 percent aminobenzoic acid) to block the rays of the sun. The agency notes that there is some variance as to the percent of hydroquinone discussed in the Findlay, Morrison, and Simson study (Ref. 1). In one place the study mentions creams "with approximately 5 percent hydroquinone and more," while in another place the authors state that "certain commercial preparations containing 3 percent hydroquinone were strengthened to 6 and 8 percent." In either case the Panel's description of "high concentrations (5 percent or more) of hydroquinone" is not misleading. For these reasons, the agency does not propose to delete this statement.

References

(1) Findlay, G. H., J. G. L. Morrison, and I. W. Simson, "Exogenous Ochronosis and Pigmented Colloid Milium from Hydroquinone Bleaching Cream," *British Journal of Dermatology* 93:613–622, 1975.

(2) Arndt, K. A., and T. B. Fitzpatrick, "Topical Use of Hydroquinone as a Depigmenting Agent," *Journal of the American Medical Association*, 194:965–967, 1965.

C. Labeling Comments

6. One comment objected to the age cy's policy of specifying a limited list of terms as the only permissible expressions of indications for use for skin bleaching drug products, specifically only those set forth in § 358.50(b). The comment recommended that § 358.50(b) be revised as follows: *"Indications.* the labeling of the product contains a statement of the indications under the heading 'Indications' making use of one or more of the following phrases, or similar terms conveying substantially the same meaning." The comment argued that as long as a product's indications are accurately described on the labeling, the product cannot be deemed to be misbranded simply because the labeling terms differ from those specifically approved by the Panels.

Since the inception of the OTC drug review, the agency has maintained that a monograph describing the conditions under which an OTC drug will be generally recognized as safe and effective and not misbranded must include both specific active ingredients

and specific labeling. (This policy has become known as the "exclusivity rule.") The agency's position has been that it is necessary to limit the acceptable labeling language to that developed and approved through the OTC drug review process in order to ensure the proper and safe use of OTC drugs. The agency has never contended, however, that any list of terms developed during the course of the review literally exhausts all the possibilities of terms that appropriately can be used in OTC drug labeling. Suggestions for additional terms or for other labeling changes may be submitted as comments to proposed or tentative final monographs within the specified time periods or through petitions to amend monographs under 21 CFR 330.10(a)(12). For example, the labeling proposed in this tentative final monograph has been expanded and revised in response to comments received.

During the course of the review, FDA's position on the "exclusivity rule" has been questioned may times in comments and objections filed in response to particular proceedings and in correspondence with the agency. The agency has also been asked by The Proprietary Association to reconsider its position. To assist the agency in resolving this issue, FDA plans to conduct an open public forum on September 29, 1982 where all interested parties can present their views. The forum will be a legislative type administrative hearing under 21 CFR Part 15 that will be held in response to a request for a hearing on the tentative final monograph for nighttime sleep-aids (published in the **Federal Register** of June 13, 1978; 43 FR 25544). Details of the hearing were announced in a notice published in the **Federal Register** of July 2, 1982 (47 FR 29002). In proposed and tentative final monographs issued in the meantime, the agency will continue to state its longstanding policy.

7. Several comments recommended that the term "skin bleaching" not be used as a statement of identity to describe this class of products because the products do not actully "bleach" the skin. Alternate terms were suggested such as "skin cream," "skin cream which lightens," "medicated skin cream," "skin treatment," "skin toner," "skin color toning," "skin color toner," "lightening brownish skin discolorations," "skin depigmenting agent," "skin lightener," and "bleaching cream."

The agency believes that consumers are familiar with the term "skin bleaching" and that the use of this term along with the indications for the product contained in § 358.50(b) accurately describe for consumers the pharmacologic results to be obtained from using these products. The term "skin lightener" is an allowable alternative for the term "skin bleaching agent" as it accurately describes the expected action of these products. The terms "bleaching cream" and "skin cream which lightens" also adequately describe the identity of a cream product which contains a skin bleaching agent. Because skin bleaching products may not be marketed necessarily in cream formulations but also are marketed in lotion and ointment formulations, the agency will modify these terms to read "skin bleaching (insert dosage form, e.g., cream, lotion or ointment)," or "skin lightening (insert dosage form, e.g., cream, lotion, or ointment)." Section 358.50(a) will be modified to allow the use of any of these terms.

Section 330.10(a)(4)(v) (21 CFR 330.10(a)(4)(v)) states that "Labeling shall be clear and truthful in all respects and * * * shall state the intended uses and results of the product * * *." Accordingly, the agency finds that general terms such as "skin cream," "medicated skin cream," and "skin treatment" are inadequate as a statement of identity because they do not describe the action of the product. Terms such as "skin toner," "skin color toning," and "skin color toner" describe the tinting or shading of skin color or may suggest a direct action on the skin such as improvement in skin elasticity or resiliency, but they fail to describe clearly the pharmacologic action of a skin bleaching agent.

The term "lightening brownish skin discolorations" is a term that best describes an indication and not a statement of identity for skin bleaching products. This term will be addressed under the comments that relate to the labeling indications for skin bleaching products under § 358.50(b). (See comment 8 below.)

The agency proposes that the term "skin depigmenting agent" not be used to identify the intended use of these products because it does not believe that depigmentation is a word that is understood by the ordinary lay consumer under customary conditions of purchase and use. For this reason, the agency also proposes to delete the word "depigmentation" from § 358.50(c)(1)(vi).

8. Several comments requested amending the Panel's recommended indications in § 358.50(b) to include the following: "skin discolorations," "lightening brownish skin discolorations," 'lightens dark pigment in the skin to produce a more even skin tone," "helps produce even tone of the skin," "evens (out) skin tone," "lightens skin tone," "helps achieve an even-toned complexion," "skin color blotches," "for skin that appears blotchy due to uneven pigmentation," "fades dark blotches," "blotches," "blotchy skin," "hand spots," "for fading hyperpigmented areas of the skin," "helps fade away dark spots," and "fades dark areas, or blotches, on the skin." The comments argued that these terms would permit many consumers, particularly Blacks, to understand better the intended action of these products.

The agency does not find the terms "tone" and "hyperpigmented" and the concept of making skin color "even" acceptable for inclusion in the indications for an OTC skin bleaching drug product. Nor does the agency find acceptable any terms that would imply that use of these products should be limited to a particular area of the body, e.g., "hand spots." The word "tone" has a number of meanings, two of which are apt to be confused when applied to products for use on the skin: "color quality or value" and "healthy elasticity" (Ref. 1). The agency believes that substantial confusion can be prevented by excluding the word "tone" from the labeling of a skin bleaching drug product. The word "hyperpigmented" is apt not to be well understood by the majority of consumers, and the agency proposes to use language that is clearer and more meaningful for this purpose. Statements that refer to making skin color "even" are not acceptable because they imply that skin bleaching agents have a selective action on concentrations of pigment and would produce even color if applied indiscriminately to wide areas of skin. In fact, an effective skin bleaching agent would exert its action on all pigment so that the result of indiscriminate application would be a lightening of the color of the total area, not just the portions in which the pigment is concentrated.

In considering the remainder of the language recommended by the Panel and by the comments for use in OTC skin bleaching drug product indications, the agency believes it is important to clarify that these products should be used on skin areas that are brownish in color. Reddish or bluish areas, such as a diffuse port-wine stain or mark, are not amenable to lightening by the use of skin bleaching agents (Ref. 2). The word "brownish" will be added in parentheses after the word "dark," which was recommended by the Panel and which the agency believes may not

be sufficiently specific by itself to assure proper use of the product. So long as a brownish color is specified, the agency finds the words "discolorations," "pigment," "spots," "blotches," and "areas" are acceptable for use in designating appropriate places on the skin to which an OTC skin bleaching agent might be applied. Thus, the indications for OTC skin bleaching products recommended by the Panel is § 358.50(b) (1) and (2) have been combined, revised, and redesignated as § 358.50(b) in the tentative final monograph to read as follows:

Indications. The labeling of the product contains a statement of the indications under the heading "Indications" as follows: (Select one of the following: "For the gradual fading of" or "Lightens") "dark (brownish)" (select one of the following: "discolorations," "pigment," "spots," "blotches," or "areas") "in the skin such as" (select one or more of the following: "freckles," "age and liver spots," or "pigment in the skin that may occur in pregnancy or from the use of oral contraceptives.")

References

(1) "Webster's Collegiate Dictionary," G. and C. Merriam Co., Springfield, MA, 1976, s.v. "tone."

(2) Holvey, D. N., editor, "Hemangiomas," *in* "The Merck Manual," 12th Ed., Merck Sharp and Dohme, Research Laboratories, Rahway, NJ, p. 1483, 1972.

9. Several comments objected to the requirement that the Panel's recommended warning statement in § 358.50(c)(1), "WARNING: Sun exposure should be avoided indefinitely by using a sunscreen agent, a sun blocking agent, or protective clothing to cover bleached skin in order to prevent darkening from reoccurring," be conspicuously boxed and in red letters. The comments argued that this statement merely seeks to caution the consumer of the accelerated reversal of the skin lightening effect resulting from sun exposure and that such information does not justify the prominent display recommended by the Panel. One comment cited section 502(f)(2) of the Federal Food, Drug, and Cosmetic Act and argued that the provisions of this section of the act do not support the warning statement recommended by the Panel because the warning is not necessary for the protection of the public health. Another comment argued that this warning is addressed not to an issue of safety but to one of efficacy. Some comments suggested that the warning be changed to read "to help prevent reversal of the effects of this product, exposure to sunlight should be limited" or "avoid overexposure to sunlight." One comment recommended that the statement be included in the monograph as part of the directions for use rather than as a warning.

The Panel determined, and the agency agrees, that information about the reversal of the hydroquinone skin bleaching effect due to exposure to the sun should be conveyed to consumers. However, repigmentation of the bleached skin by the sun's ultraviolet light is not considered by the agency to be a safety problem, but relates substantially to the effectiveness of the product. Therefore, the agency does not believe that a boxed warning or red letters are necessary to inform the consumer that repigmentation may occur if the area is exposed to the sun.

In addition, the agency agrees with the comments that labeling information should advise the consumer to "limit exposure" or "avoid overexposure" to sunlight and that the best means of achieving this are through the use of a sunscreen agent, a sunblocking agent, or protective clothing. The agency also agrees that it is more appropriate for this information to appear under the directions for use. Accordingly, the agency proposes to incorporate § 358.50(c)(1) from the Panel's recommended monograph into *"Directions"* in § 358.50(d) in the tentative final monograph and modify this statement to read "Sun exposure should be limited by using a sunscreen agent, a sun blocking agent, or protective clothing to cover bleached skin when using and after using this product in order to prevent darkening from reoccurring." For products containing a sunscreen, the statement will be changed slightly to read "Sun exposure should be limited by using a sunscreen agent, a sunblocking agent, or protective clothing to cover bleached skin after treatment is completed in order to prevent darkening from reoccurring." The tentative final monograph does not require that this information be boxed and in red letters.

10. Three comments argued that the warning statement recommended by the Panel in § 358.50(c)(1)(iv), "If no improvement is seen after 2 months of treatment, use of this product should be discontinued," should be deleted or moved to *"Directions"* under § 358.50(d). One comment claimed that the warning was unnecessary because consumers automatically would discontinue use if the product did not work for them. The other comments argued that the Panel had no rationale for the 2-month limitation, and that there was clinical evidence that in some persons it may take up to 3 months before the onset of depigmenting effects (Ref. 1).

The agency agrees that the statement in § 358.50(c)(1)(iv) would be more appropriate as part of the directions for use. The agency also agrees with the comments that the 2-month limitation may not provide sufficient time for some individuals to obtain results and that there is clinical evidence that for some users results are not obtained until after 3 months of use (Ref. 1). Accordingly, the agency proposes that § 358.50(c)(1)(iv) be revised to provide for up to "3 months of treatment" and that it be incorporated into *"Directions"* in § 358.50(d)(1) in the tentative final monograph.

Reference

(1) Arndt, K. A., and T. B., Fitzpatrick, "Topical Use of Hydroquinone as a Depigmenting Agent," *Journal of the American Medical Association*, 194:965–967, 1965.

11. Several comments argued that the Panel had no evidence or rationale to support its recommended limitation of use of hydroquinone for children under 12 years of age in § 358.50(c)(1)(v) and (d)(1). Another comment suggested that it was sufficient that the limitation appear only under *"Directions"* in § 358.50(d)(1) and not under *"Warnings"* in § 358.50(c)(1)(v). One comment suggested that § 358.50(c)(1)(v), "Not recommended for use in children under 12 years of age," be changed to read "Not recommended for use on children under 12 years of age." Another comment suggested that § 358.50(d)(1) be revised to read as follows: "* * * For children under 12, it should only be used on the advice and direction of a physician."

The agency points out that the Panel reviewed the literature and could find no data for either the safety or effectiveness of hydroquinone for use on children under 12 years of age. Because of the absence of data, the Panel could not responsibly conclude that these products were generally recognized as safe and effective for this age group. Based on the indications for these products being proposed in this tentative final monograph, the agency believes that OTC skin bleaching drug products are marketed primarily for adult use. The agency concurs with the Panel that these products should not be used on children under 12 years of age unless a doctor is consulted first.

The agency disagrees that it is sufficient that such a limitation on use appear only under *"Directions"* and not under *"Warnings,"* but believes that this information should be presented in both

sections. The agency agrees with the comments that the word "on" children rather than "in" children should be used in the warning statement and that the warning statement should recognize that the product may be used on the advice and direction of a doctor. Accordingly, the agency proposes that the warning under § 358.50(c) "Not recommended for use in children under 12 years of age" be revised to read as follows: "Do not use on children under 12 years of age unless directed by a doctor." Likewise, the agency proposes that the statement in the *"Directions"* section § 358.50(d)(1)) be revised to read as follows: "Children under 12 years of age: do not use unless directed by a doctor."

12. Several comments requested deletion of the Panel's recommended warning statement in § 358.50(c)(1)(vi) "Depigmentation (lightening) effect of this product may not be noticeable when used on very dark skin." The comments argued that hyerpigmented patches (blotches) are the type of skin most susceptible to treatment with hydroquinone and that hydroquinone showed noticeable changes when used on the dark skin of pigs and on pigmented cells of transplantable mouse melanomas (Refs. 1 and 2).

The agency notes that the data referenced by the comments are supportive of the lightening effects of hydroquinone in certain animal models (Refs. 1 and 2). Nevertheless, the agency agrees with the Panel that there are ample clinical data to conclude that the lightening effect of hydroquinone in humans may not be noticeable when used on very dark skin, and that lighter-skinned individuals are more likely to experience a greater skin-lightening effect (Refs. 3, 4, and 5). However, the agency believes that this information more appropriately is presented under the directions for use. Accordingly, the agency proposes that the information recommended by the Panel in § 358.50(c)(1)(vi) be incorporated in § 358.50(d)(1) in the tentative final monograph. As discussed in comment 7 above, the word "depigmentation" has been deleted because it may not be well understood by the majority of consumers under customary conditions of purchase and use.

References

(1) "An Evaluation of a Cosmetic Cream Containing 2% W/W of Hydroquinone as an Agent for Reducing the Darkness of Black Skin," draft of unpublished report attached to Comment No. C00002, Docket No. 78N-0065, Dockets Management Branch.

(2) Hu, F., "The Influence of Certain Hormones and Chemicals on Mammalian Pigment Cells," *Journal of Investigative Dermatology*, 46:177–124, 1966.

(3) Arndt, K. A., and T. B. Fitzpatrick, "Topical Use of Hydroquinone as a Depigmenting Agent," *Journal of the American Medical Association*, 194:965–967, 1965.

(4) Spencer, M. C., "Topical Use of Hydroquinone for Depigmentation," *Journal of the American Medical Association*, 194:962–964, 1965.

(5) Spencer, M. C., "Hydroquinone Bleaching," *Archives of Dermatology*, 84:131–134, 1961.

13. Several comments recommended changing the directions in § 358.50(d) to make them better understood and more easily followed by lay consumers. They recommended changing "adult topical dosage is the thin application of a 1.5 to 2.0 percent preparation to the affected area twice daily" to read "for adults, apply twice daily to the affected areas or use as directed by a physician."

The agency notes the original wording of the directions for use contained the allowable concentration of hydroquinone. However, it is not likely that the Panels intended the exact wording in this section to be used in labeling as it was not contained in quotation marks in the advance notice of proposed rulemaking. Moreover, FDA believes that stating the concentration of hydroquinone in the directions is unnecessary and might unintentionally confuse the consumer. Because of the hydroquinone concentration is stated in § 358.10, the agency proposes to delete it from § 358.50(d) and reword this section in the tentative final monograph to read, "Adults: apply a small amount as a thin layer on the affected area twice daily, or use as directed by a doctor."

14. One comment requested that the term "Caution" replace the term "Warning" in the preface to the statement in § 358.50(c)(1)(ii), "Avoid contact with eyes." The comment argued that this statement was more appropriately classified as a "caution" rather than as a "warning."

The agency notes that historically there has not been a consistent usage of the signal words "warning" and "caution" in OTC drug labeling. For example, in § § 369.20 and 369.21 (21 CFR 369.20 and 369.21), which list "warning" and "caution" statements for drugs, the signal words "warning" and "caution" are both used. In some instances, either of these signal words is used to convey the same or similar precautionary information.

FDA has considered which of these signal words would be most likely to attract consumers' attention to that information describing conditions under which the drug product should not be used or its use should be discontinued. The agency concludes that the signal word "warning" is more likely to flag potential dangers so that consumers will read the information being conveyed. Therefore, FDA has determined that the signal word "warning," rather than the work "caution," will be used routinely in OTC drug labeling that is intended to alert consumers to potential safety problems.

15. One comment recommended changing the warning in § 358.50(c)(1)(iii) from "If skin irritation develops, use of this product should be discontinued or a physician should be consulted," to "If skin irritation persists, discontinue use or consult a physician." The comment argued that the Panel's recommended warning seemed inconsistent with the observations or Arndt and Fitzpatrick (Ref. 1) who observed, "The occurrence of inflammation makes subsequent lightening more likely."

The agency recognizes that the use of hydroquinone products may be accompanied by a mild inflammatory reaction after the first few weeks of treatment and that this inflammation makes subsequent lightening more likely. In some instances the reaction may be so mild as to go unnoticed. The agency believes that consumers should be advised that a mild skin irritation is expected, but if severe irritation occurs, use of the product should be discontinued. Accordingly, the agency proposes that the warning in § 358.50(c)(1)(iii) (which has been redesignated § 358.50(c)(1)(ii) in this tentative final monograph) be revised as follows: "Some users of this product may experience a mild skin irritation. If skin irritation becomes severe, stop use and consult a doctor."

Reference

(1) Arndt, K. A., and T. B. Fitzpatrick, "Topical Use of Hydroquinone as a Depigmenting Agent," *Journal of the American Medical Association*, 194:965–967, 1965.

16. One comment asked whether the monograph would require labeling that would include a statement that patch testing should precede the use of hydroquinone-containing skin bleaching products. The comment pointed out the Panel's statement at 43 FR 51550 that "the use of hydroquinone for depigmenting * * * should never be considered without a cautious therapeutic trial on a limited, inconspicuous area" (patch testing). The comment questioned whether the absence of a patch-testing requirement in the Panel's recommended monograph indicated that 1.5 and 2 percent hydroquinone preparations do not

present sufficient risk of sensitivity reactions to justify patch-testing labeling. The comment requested the agency to resolve this uncertainty by not requiring patch-testing labeling under the monograph.

The agency believes that the comment misinterpreted the Panel's recommendation as to when a patch test should be employed. In making the statement quoted above by the comment, the Panel was advising that the use of hydroquinone for depigmenting certain conditions, i.e., photosensitization reactions, lichen planus (an inflammatory skin disease), or dermatitis caused by reaction to drugs, never should be considered without a cautious trial (patch testing). The agency believes that the Panel did not mean to imply by this statement that patch testing should be done for normal conditions of use of hydroquinone skin bleaching products.

The agency does not believe that labeling that suggests the consumer perform a patch test before using a skin bleaching product is justified for 1.5 to 2 percent hydroquinone preparations. These preparations are for use only on limited areas of the body. Moreover, this restricted use has not been shown to produce a significant risk of sensitivity reactions when directions for use of the product are followed. Sensitivity reaction normally does not occur at the 2-percent concentration. Accordingly, the agency will not propose patch-testing labeling for 1.5 to 2 percent hydroquinone skin bleaching drug products. Further, the agency believes the skin irritation warning in § 358.50(c)(1)(ii) in the tentative final monograph adequately informs the consumer what course of action to take should sensitization occur. (See comment 15 above.)

17. One comment suggested that an effort be made to limit the number of warnings in § 358.50(c). The comment felt that a minimum of concern for safe use exists with hydroquinone products and, therefore, to promote effective communication with the consumer an effort should be made to limit unnecessary warnings.

The agency has reviewed the warnings recommended by the Panel in § 358.50(c) and proposes that the information contained in three of these warnings be placed under *Directions.* Thus, the agency proposes to reduce the number of warnings from six to three. (See comments 9, 10, and 12 above.)

18. Two comments urged that the Category II labeling section be modified so as not to prohibit cosmetic claims and that a distinction be made between cosmetic claims and drug claims. One of the comments asked that a distinction be drawn between claims that use of skin bleaching products results in healthier, younger, or rejuvenated skin (which are drug claims) and claims that use of the products results in healthier or younger *looking* skin (which are cosmetic claims and should not be prohibited). The comment added that skin bleaching products are used essentially for cosmetic purposes (to achieve visual effects) and that these products are best judged by the consumer's perception of whether the depigmenting effects promote attractiveness. The second comment argued that since these products are used by consumers to improve the appearance of the skin, cosmetic claims which merely refer to this effect should not be proscribed as Category II.

The agency agrees with the comments that a distinction between drug and cosmetic claims must be made because OTC drug monographs contain labeling requirements only for the drug use of products. The Panel recommended that the following kinds of claims be regarded as Category II: claims that are unsupported by scientific data and beyond the known pharmacologic properties of hydroquinone; claims that are not clinically defined or which would imply use of the product on injured skin or burns; claims that use poorly defined terms that would confuse the consumer because the words have a different significance for different people; claims that imply through use of certain terms an immediate rather than a gradual skin bleaching effect; and claims that in any way negate, detract, or deemphasize the warning statements in the labeling. The agency generally agrees with the Panel's recommendations, but does not agree with all of the examples provided by the Panel at 43 FR 51554, for example, "natural aging," which is discussed in comment 19 below, and "blotches," which are discussed in comment 8 above.

While the monograph for skin bleaching products does not include domestic labeling of skin bleaching products, the agency has no objection to cosmetic labeling appearing on these products along with the required drug labeling. Cosmetic claims that refer to improving the appearance of the skin or to more attractive or beautiful skin are acceptable provided they conform to the cosmetic labeling requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 362). Consistent with the provisions of § 701.3(d) (21 CFR 701.3(d)) regarding declaration in labeling of active drug ingredients and cosmetic ingredients, it is the agency's view that cosmetic claims appearing in any portion of the labeling that is required by the monograph could be misleading. Cosmetic claims may appear elsewhere on the label.

19. One comment requested clarification of the Panel's placement in Category II of claims such as "* * * where skin has become discolored, spotted, or darkened from bad weather or natural aging," while it placed claims for "age spots, liver spots, freckles, and melasma" in Category I. The comment argued that the Category II claim might serve as a basis for prohibiting the Category I claim and stated that it was unlikely that this was the Panel's intent.

The agency points out that the claim "for stubborn cases where skin has become discolored, spotted, or darkened from bad weather or natural aging," which was placed in Category II by the Panel, was cited as an example of a claim that is not clinically defined or that would imply use of the skin bleaching product on injured skin or burns. In reviewing this claim, the agency concludes that only that portion of the claim dealing with bad weather would imply that a skin bleaching product was for use on injured skin or burns. The natural aging referred to in the claim very likely could be confused with age and livers spots, for which a skin bleaching product may be used safely. The agency therefore proposes to remove from Category II that portion of the above claim that reads, "or natural aging." The Category I labeling indications for skin bleaching drug products are discussed in comment 8 above.

D. Comments on Combination Products

20. One comment recommended that § 358.20 be expanded to include hydroquinone formulations in a base that is opaque to ultraviolet radiation. The comment specifically mentioned a hydrophilic opaque base containing 10 percent talc as a light-scattering and reflecting agent. The comment included data to illustrate the Sun Protection Factor (SPF) values of its hydroquinone 2 and 4 percent formulations in this base (Ref. 1).

The agency notes that the Panel found hydroquinone combined with a sunscreen to be a rational combination and therefore recommended in § 358.20 that hydroquinone be combined with any generally recognized safe and effective sunscreen active ingredient identified in 21 CFR 352.10 (see the **Federal Register** of August 25, 1978; 43 FR 38206) provided that the product is labeled only as a skin bleaching agent and not as a sunscreen. The agency

points out that many different ingredients have been recommended in § 352.10 as Category I sunscreens. However, talc is not one of the ingredients listed in § 352.10 and therefore is not presently a Category I sunscreen active ingredient. The agency believes that the sunscreen rulemaking and not the skin bleaching rulemaking is the proper forum in which to consider talc for sunscreen use.

Reference

(1) Comment No. C00007, Docket No. 78N-0065, Dockets Management Branch.

21. One comment requested that the phrase "provided that the product is labeled only as identified in § 358.50" be deleted from § 358.20, which would have permitted combinations of hydroquinone with any generally recognized safe and effective sunscreen active ingredient provided that the product is labeled only as a skin bleaching drug product. The comment argued that the phrase could possibly be interpreted to mean that nonmedical claims, which are permitted on products that contain hydroquinone alone, may not likewise be permitted on products that contain both hydroquinone and a sunscreen.

The agency emphasizes that OTC drug monographs contain appropriate drug labeling claims to be used on OTC drug products and do not preclude the use of acceptable cosmetic claims if the product is both a drug and a cosmetic. The phrase that the comment requested be deleted was intended to relate only to the drug aspects of skin bleaching-sunscreen combination products and was not intended to preclude the use of cosmetic claims.

22. One comment argued that the warning under § 358.50(c)(1), "WARNING: Sun exposure should be avoided indefinitely by using a sunscreen agent, a sun blocking agent, or protective clothing to cover bleached skin in order to prevent darkening from reoccurring," is inconsistent because the warning fails to differentiate between single ingredient hydroquinone products and products containing hydroquinone combined with sunscreen agents. The comment argued that formulations including a sunscreen or sun blocking agent already satisfy the requirement of avoidance of sun exposure by the use of a sunscreen, and the warning statement should not be required on hydroquinone-sunscreen combination drug products.

In its review of hydroquinone and hydroquinone-sunscreen combinations, the Panel recognized that the inclusion of a sunscreen in a hydroquinone-sunscreen combination drug product was not sufficient to forestall the reoccurrence of darkening of the skin by sunlight. The Panel recognized that incorporating a sunscreen in a hydroquinone product would be beneficial only as long as the sunscreen was present on the surface of the skin. When the sunscreen was washed off, or when the consumer stopped using the combination product, the consumer still would be confronted with the problem of reoccurrence of skin darkening when the treated area was exposed to sunlight. Accordingly, the Panel advised that continual protection of the bleached area was necessary regardless of whether hydroquinone was used alone or whether a hydroquinone-sunscreen combination drug product was used. The agency concurs, but believes that consumers should be informed of the difference between products containing a sunscreen and those not containing a sunscreen. As discussed in comment 9 above, this information will now be included in the monograph as part of the directions for use rather than as a warning.

23. One comment requested that § 358.20 and § 358.50 be revised to allow hydroquinone-sunscreen combination products to bear a labeling statement indicating that the product contains an effective sunscreen agent to minimize the effect of sunlight in reversing the skin bleaching effect of hydroquinone.

Two comments requested deletion of the warning for hydroquinone-sunscreen combination products in § 358.50(c)(2), i.e., "This product will bleach skin and is not for use for the prevention of sunburn." The comments reasoned that the absence of a sunburn prevention claim for these products would limit their use as sunburn preventatives, and thus a statement not to use the product for the prevention of sunburn was unwarranted.

Although the Panel found the combination of hydroquinone and a sunscreen rational, it did not provide sufficient information regarding the labeling of such a combination. The Panel recommended that such combination products not be labeled as sunscreens in order to avoid specific reference to their use in preventing sunburn and permitting tanning. The agency agrees but believes that consumers should be informed that the combination product "contains a sunscreen to help prevent darkening from reoccurring". The agency therefore is proposing to include this language in the "Indications" section in this tentative final monograph at § 358.50(b)(2). Because the term "sunscreen" is proposed for inclusion in the labeling, it is especially important to inform consumers that these products are not for the prevention of sunburn. The Panel recommended at § 358(c)(2) the warning, "This product will bleach skin and is not for use for the prevention of sunburn." The agency concurs with the intent of the warning, but proposes to shorten it in the tentative final monograph to read "This product is not for use in the prevention of sunburn."

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions.

1. *Summary of ingredient categories.* The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and concurs with the Panel's categorization of hydroquinone in concentrations of 1.5 to 2.0 percent in Category I and ammoniated mercury in Category II. The Panel placed ammoniated mercury in Category II because it felt that ammonitated mercury is not safe for OTC use. Mercury can pass through the skin, especially in an ointment base, and chronic application can cause systemic mercury intoxication. In addition, the Panel was unable to locate data relevent to the efficacy of ammoniated mercury in OTC skin bleaching drug products. (See 43 FR 51553.) The Panel placed no skin bleaching agents in Category III as single ingredients, and the agency concurs.

The recommended monograph reflected the Panel's view that hydroquinone may be combined with any generally recognized safe and effective sunscreen active ingredient. The agency concurs but is proposing revised labeling for all such combinations in the tentative final monograph.

2. *Testing of Category II and Category III conditions.* Because the Panel did not place any ingredients in Category III, it did not recommend any testing guidelines for Category III skin bleaching conditions. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any skin bleaching ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and

agency communications on submitted test data and other information.

B. Summary of the Agency's Changes in the Panel's Recommendations.

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made in the Panel's conclusions and recommendations follows.

1. The agency proposes to add to the Panel's statement of identity ("skin bleaching agent") in § 358.50(a) the alternative trems "skin lightener," "skin bleaching (insert dosage form, e.g., cream, lotion, or ointment)," and "skin lightening (insert dosage form, e.g., cream, lotion, or ointment)." (See comment 7 above.)

2. The agency proposes to combine and revise the Panel's recommended indications in § 358.50(b)(1) and (2) (redesignated § 358.50(b)) to read as follows in the tentative final monograph:

(Select one of the following: "For the gradual fading of" or "Lightens") "dark (brownish)" (select one of the following: "discolorations," "pigment," "spots," "blotches," or "areas") "in the skin such as" (select one or more of the following: "freckles," "age and liver spots," or "pigment in the skin that may occur in pregnancy or from the use of oral contraceptives.") (See comment 8 above.)

3. The warning in § 358.50(c)(1)(iii), "If skin irritation develops, use of this product should be discontinued or a physician should be consulted," has been tentatively redesignated § 358.50(c)(1)(ii) and revised as follows: "Some users of this product may experience a mild skin irritation. If skin irritation becomes severe, stop use and consult a doctor." (See comment 15 above.)

4. The agency proposes to reword the information in the Panel's warnings in § 358.50(c)(1)(i), (iv), and (vi) and move this information to the *"Directions"* in § 358.50(d)(1). This includes information to the effect that sun exposure should be limited by using a sunscreen agent, a sun blocking agent, or protective clothing to cover bleached skin when using and after using the product in order to prevent darkening from reoccurring; a statement that the lightening effect of hydroquinone may not be noticeable on very dark skin; and a statement specifying a use limitation period. (See comments 9, 10, and 12 above.)

5. In light of evidence that for some users 3 months are required in order to obtain results, the agency proposes to increase the 2-month use limitation in § 358.50(c)(1)(iv) to 3 months and to incorporate this limitation in § 358.50(d)(1) as part of the *"Directions."* Further, the agency proposes to delete the concentration of hydroquinone from the *"Directions"* recommended by the Panel in § 358.50(d)(1) as being unnecessary and possibly confusing to consumers. The proposed allowable concentration is included in § 358.10 in the tentative final monogaph. (See comments 10 and 13 above.)

6. The agency has proposed revised labeling for the combination of a skin bleaching agent with a sunscreen. (See comments 22 and 23 above.)

The agency has examined the economic consequences of this proposed rulemaking and has determined that it does not require either a Regulatory Impact Analysis, as specified in Executive Order 12291, or a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, it would place hydroquinone, the main ingredient used in these products, in Category I, and ammoniated mercury in Category II, as recommended by the Panel. Minimal reformulation and some relabeling would be necessary; however the agency has expanded the labeling recommended by the Panel, so that manufacturers would have a wide choice of language which could be incorporated into their labels at minimal cost in the normal course of reordering. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

The agency invites public comments regarding any substantial or significant economic impact that this rulemaking would have on OTC skin bleaching drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC skin bleaching drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on skin bleaching drug products, a period of 120 days from the date of publication of this proposed rulemaking in the **Federal Register** will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined that under 21 CFR 25.24(d)(9) (proposed in the **Federal Register** of December 11, 1979; 44 FR 71742) this proposal is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 358

Over-the-counter drugs, Skin bleaching agents, Wart removers, Nailbiting and thumbsucking deterrents, Ingrown toenail relief.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 358, to read as follows:

PART 358—MISCELLANEOUS EXTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—Skin Bleaching Drug Products

General Provisions

Sec.
358.1 Scope.
358.3 Definition.

Active Ingredient

358.10 Skin bleaching active ingredient.
358.20 Permitted combinations of active ingredients.

Labeling

358.50 Labeling of skin bleaching drug products.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704).

Subpart A—Skin Bleaching Drug Products

General Provisions

§ 358.1 Scope.

(a) An over-the-counter skin bleaching drug product in a form suitable for

topical administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this subpart in addition to each of the general conditions established in § 330.1.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 358.3 Definition.

As used in this subpart:

Skin bleaching active ingredient. An agent designed to bleach or otherwise lighten limited areas of hyperpigmented skin through the suppression of melanin pigment formation within skin cells.

Active Ingredient

§ 358.10 Skin bleaching active ingredient.

The active ingredient and its concentration in the product is as follows: hydroquinone 1.5 to 2.0 percent.

§ 358.20 Permitted combinations of active ingredients.

Hydroquinone identified in § 358.10 may be combined with any generally recognized safe and effective sunscreen active ingredient identified in § 352.10 provided that the product is labeled according to § 358.50.

Labeling

§ 358.50 Labeling of skin bleaching drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "skin bleaching agent," "skin lightener," "skin bleaching (insert dosage form, e.g., cream, lotion, or ointment)," or "skin lightening (insert dosage form, e.g. cream, lotion, or ointment)."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the following phrases:

(1) *For products containing the ingredient identified in § 358.10 or any combination identified in § 358.20.* (Select one of the following: "For the gradual fading of" or "Lightens") "dark (brownish)" (select one of the following: "discolorations," "pigment," "spots," "blotches," or "areas") "in the skin such as" (select one or more of the following: "freckles," "age and liver spots," or "pigment in the skin that may occur in pregnancy or from the use of oral contraceptives.")

(2) *For products containing any combination identified in § 358.20.* "Contains a sunscreen to help prevent darkening from reoccurring."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) *For products containing the ingredient identified in § 358.10 or any combination identified in § 358.20.*

(i) "Avoid contact with eyes."

(ii) "Some users of this product may experience a mild skin irritation. If skin irritation becomes severe, stop use and consult a doctor."

(iii) "Do not use on children under 12 years of age unless directed by a doctor."

(2) *For products containing any combination identified in § 358.20.* "This product is not for use in the prevention of sunburn."

(d) *Directions.* The labeling of the product contains the following statements under the heading "Directions":

(1) *For products containing the ingredient identified in § 358.10 or any combination identified in § 358.20.* "Adults: apply a small amount as a thin layer on the affected area twice daily, or use as directed by a doctor. If no improvement is seen after 3 months of treatment, use of this product should be discontinued. Lightening effect of this product may not be noticeable when used on very dark skin.

"Children under 12 years of age: do not use unless directed by a doctor."

(2) *For products containing the ingredient identified in § 352.10.* "Sun exposure should be limited by using a sunscreen agent, a sun blocking agent, or protective clothing to cover bleached skin when using and after using this product in order to prevent darkening from reoccurring."

(3) *For products containing any combination identified in § 358.20.* "Sun exposure should be limited by using a sunscreen agent, a sun blocking agent, or protective clothing to cover bleached skin after treatment is completed in order to prevent darkening from reoccurring."

Interested persons may, on or before November 2, 1982 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before January 3, 1983. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register.**

Interested persons, on or before September 3, 1983, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before November 3, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on November 3, 1983. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register** unless the Commissioner finds good cause has been shown that warrants earlier consideration.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Dated: August 9, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82–24077 Filed 9–2–82; 8:45 am]

BILLING CODE 4160–01–M

federal register

Friday
September 3, 1982

Part VI

Department of Health and Human Services

Food and Drug Administration

Ingrown Toenail Relief Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 358

[Docket No. 80N-0348]

Ingrown Toenail Relief Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) ingrown toenail relief drug products are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products and the public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs on the proposed regulation by November 2, 1982. New data by September 3, 1983.

Comments on the new data by November 3, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Comments on the agency's economic impact determination by January 2, 1983.

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. New data and comments on new data should also be addressed to the Dockets Management Branch.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologists (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 17, 1980 (45 FR 69128), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC ingrown toenail relief drug products, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by January 15, 1981. Reply comments in response to comments filed in the initial comment period could be submitted by February 16, 1981.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information.

The advance notice of proposed rulemaking, which was published in the **Federal Register** on October 17, 1980 (45 FR 69128), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarly, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) the FDA states for the first time its position on the establishment of a monograph for OTC ingrown toenail relief drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC ingrown toenail relief drug products.

In response to the advance notice of proposed rulemaking, two consumers, two drug manufacturers, and one college of podiatric medicine submitted comments. Copies of these comments are on public display in the Dockets Management Branch.

This proposal would amend Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations in Part 358 by adding Subpart D. This proposal constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC ingrown toenail relief drug products as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and are reflected in this tentative final monograph. The agency emphasizes that no ingrown toenail relief active ingredients have been determined to be generally recognized as safe and effective and not misbranded. However, the agency is proposing Category I labeling in this document in the event that data are submitted which result in the upgrading of any ingredient to monograph status in the final rule.

FDA published in the **Federal Register** of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph (46 FR 47738).

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register**. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application. Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC ingrown toenail relief drug products (published in the **Federal Register** of October 17, 1980 (45 FR 69128)), the agency had suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products will have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and have their products in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notices published in the **Federal Register** of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Tentative Conclusions on the Comments

A. General Comment on Ingrown Toenail Relief Drug Products

1. One comment questioned how the government could become involved in such a trivial matter as proposing a rule on ingrown toenail relief drug products. The comment requested that the agency not issue this rule.

As part of the agency's review of all OTC drug products, the Panel considered the safety and effectiveness of many classes of OTC miscellaneous external drug products. Although ingrown toenail relief drug products affect only a small group of consumers, the agency believes that all marketed OTC drug products should be both safe and effective and not misbranded for their intended use. Accordingly, the agency is continuing with this rulemaking proceeding.

B. Comments on Ingrown Toenail Relief Ingredients

2. One comment contended that the existing clinical data reviewed by the Panel (Ref. 1) sufficiently demonstrated the efficacy of a 1-percent concentration of sodium sulfide in relieving pain and tenderness associated with ingrown toenails. However, the comment stated that an additional clinical study would be provided to the agency to demonstrate the efficacy of sodium sulfide in treating ingrown toenails.

The agency has evaluated the clinical data reviewed by the Panel and agrees with the Panel that they are not sufficient to establish the effectiveness of 1 percent sodium sulfide for the temporary relief of discomfort due to ingrown toenails. The additional clinical study referred to by the comment has not been submitted yet. In the absence of new clinical data demonstrating the effectiveness of 1 percent sodium sulfide, this ingredient will remain in Category III, as recommended by the Panel.

Reference

(1) OTC Volumes 160100 and 160280.

3. One comment questioned the Panel's conclusion that tannic acid is safe in concentrations up to 25 percent when applied to the area of an ingrown toenail. The comment noted the Panel's recommended warning against the use of a tannic acid product on open sores, but contended that an ingrown toenail could cause a hard-to-detect puncture of the skin through which tannic acid could be absorbed and thereby cause liver damage.

The Panel stated that tannic acid has little action on intact skin and that it is safe when applied to a small area of intact skin such as that surrounding an ingrown toenail. Similarly, the Antimicrobial II Panel concluded in its report on OTC antifungal drug products (published in the **Federal Register** of March 23, 1982; 47 FR 12480) that topically applied tannic acid is likely to interact with surface proteins so extensively that even when used on the fissured areas of athlete's foot, percutaneous absorption of this ingredient is unlikely. The agency believes that in the case of a small puncture of the skin that may be caused by an ingrown toenail, a smiliar reaction will result, and absorption is unlikely to occur. Further, because only a few drops of tannic acid solution would be used on an ingrown toenail, the agency believes that tannic acid is safe in concentrations up to 25 percent when application is limited to this small area.

4. One comment requested that tannic acid be included in the tentative final monograph and disputed the Panel's conclusion that there is insufficient evidence to show that tannic acid alone is effective in hardening the skin and shrinking soft tissue surrounding the ingrown toenail. The comment cited a study by Grinell (Ref. 1), in which 44 subjects used a product containing a combination of tannic acid and chlorobutanol in isopropyl alcohol, and studies in mice comparing tannic acid in isopropyl alcohol to the tannic acid and chlorobutanol combination in isopropyl alcohol (Ref. 2). The comment, noting Grinell's conclusion that the tannic acid-chlorobutanol combination product was effective in reducing pain and helping to restore the nail to its proper relationship with soft toe tissues, added that although tannic acid was not studied alone, it is the only ingredient in the combination capable of hardening the nail groove by hardening the skin around the nail. The comment contended that hardening the surrounding skin is the main consideration in relieving ingrown toenail.

The agency has reviewed the data submitted and concurs with the Panel's conclusion. Because these studies did not test tannic acid alone, there is insufficient evidence to show that this ingredient is effective in relieving the symptoms of ingrown toenail by hardening the skin and shrinking the soft tissue surrounding an ingrown toenail. Controlled clinical studies are needed to show the effect of tannic acid alone in relieving ingrown toenail symptoms.

References

(1) Grinell, R. N., "Ingrown Toe Nail," *Podiatry Quarterly*, 2:8–10, 1964.
(2) OTC Volume 160384.

5. One comment requested that the combination of tannic acid and chlorobutanol in isopropyl alcohol be placed in Category I for the relief of ingrown toenail. Citing data submitted to the Panel (Ref. 1), the comment contended that tannic acid hardens the skin of the nail groove surrounding an ingrown toenail to help restore the normal relationship of the nail to the surrounding soft tissue, and that chlorobutanol is a local anesthetic for relief of pain.

After reviewing the data submitted to the Panel, the agency believes that such a combination appears rational for the relief of ingrown toenail; however, no evidence of relief of pain was presented in the data submitted for the combination product. The agency further notes that the Topical Analgesic Panel placed chlorobutanol in Category III for effectiveness as an external analgesic (December 4, 1979; 44 FR 69848). Further data are needed to demonstrate that the combination relieves pain, and to demonstrate the effectiveness of each active ingredient for its stated use.

Reference

(1) OTC Volume 160384.

C. Comments on Labeling of Ingrown Toenail Relief Drug Products

6. One comment contended that FDA does not have the authority to legislate the exact wording of OTC labeling claims to the exclusion of what the comment described as other equally truthful claims for the products. The comment objected to the labeling recommended by the Panel as being overly restrictive and recommended that more flexibility in labeling be permitted by adding the following statement to each subsection of §358.450 "* * * or similar statements which are in keeping with the Panel's report."

Since the inception of the OTC drug review, the agency has maintained that a monograph describing the conditions under which an OTC drug will be generally recognized as safe and effective and not misbranded must include both specific active ingredients and specific labeling. (This policy has become known as the "exclusivity rule.") The agency's position has been that it is necessary to limit the acceptable labeling language to that developed and approved through the OTC drug review process in order to ensure the proper and safe use of OTC drugs. The agency has never contended, however, that any list of terms developed during the course of the review literally exhausts all the possibilities of terms that appropriately can be used in OTC drug labeling. Suggestions for additional terms or for other labeling changes may be submitted as comments to proposed or tentative final monographs within the specified time periods or through petitions to amend monographs under 21 CFR 330.10(a)(12). For example, the labeling proposed in this tentative final monograph has been expanded and revised in response to comments received.

During the course of the review, FDA's position on the "exclusivity rule" has been questioned many times in comments and objections filed in response to particular proceedings and in correspondence with the agency. The agency has also been asked by the Proprietary Association to reconsider its position. To assist the agency in resolving this issue, FDA plans to conduct an open public forum on September 29, 1982 where all interested parties can present their views. The forum will be a legislative type administrative hearing under 21 CFR Part 15 that will be held in response to a request for a hearing on the tentative final monograph for nighttime sleep-aids (published in the **Federal Register** of June 13, 1978; 43 FR 25544). Details of the hearing were announced in a notice published in the **Federal Register** of July 2, 1982 (47 FR 29002). In proposed and tentative final monographs issued in the meantime, the agency will continue to state its longstanding policy. Accordingly, the agency at this time does not accept the comment's recommendation to add to the monograph the statement "* * * or similar statements which are in keeping with the Panel's report."

7. One comment suggested that the term "ingrown toenail relief drug product," recommended by the Panel as a statement of identity in § 358.450(a), not be used to describe this class of products because the wording is excessively cumbersome and not consistent with other previously proposed statements that present the intended activity in a more succinct manner. The terms "ingrown toenail treatment" and "ingrown toenail relief" were suggested as alternatives.

The agency believes that the term "ingrown toenail relief" is generally an allowable alternative for the term "ingrown toenail relief drug product" as it accurately describes the expected action of these products; however, this term should be modified to "ingrown toenail reliever" for grammatical precision. Section 358.450(a) will be modified to allow the use of this term as an alternative statement of identity. The agency is also proposing to shorten the Panel's recommended statement of identity, to make it less cumbersome, by deleting the word "drug."

The term "ingrown toenail treatment" does not describe the action of the product. "Treatment" is defined as the systematic effort to cure illness and relieve symptoms (Ref. 1). These products are indicated only for the temporary relief of discomfort from ingrown toenails, not as a cure for the condition. Accordingly, the agency is not proposing this term in the tentative final monograph.

Reference

(1) "The Random House College Dictionary," Random House, Inc., New York, 1980, s.v. "treatment."

8. One comment contended that the products reviewed by the Panel have a greater efficacy in the management of "incurvated nails," than of "ingrown nails" which have penetrated the skin and have provided a potential site for bacterial infection. The comment recommended that the indications for these products be changed accordingly.

OTC ingrown toenail products are intended to relieve the discomfort of embedded nails; they are not intended to be used on nails that have penetrated the skin and may result in an infection. As the Panel noted, the term "ingrown toenail" was described by Grinell (Ref. 1) as a misnomer, because the nail never grows into the flesh, but instead becomes embedded. The Panel stated that the labeling of a product intended to relieve discomfort of ingrown toenail should state the nature and use of the product in language that is clear and easy for a lay user to understand (45 FR 69130). Even though the term "incurvated toenail" may more accurately describe the condition for which these OTC drug products are intended, the agency believes that it is not apt to be as well understood by consumers. Therefore, the term "ingrown toenail" is being proposed in

the tentative final monograph because consumers are more familiar with this term, and it is accepted in general usage as meaning a toenail that has become embedded (ref. 2).

References

(1) Grinell, R. N., "Ingrown Toe Nail," *Podiatry Quarterly*, 2:8–10, 1964.

(2) "Webster's New Collegiate Dictionary," G. and C. Merriam Co., Springfield, MA, 1976, s. v. "ingrown."

9. One comment requested amending the Panel's recommended indications in § 358.450(b) to include the following: "relieves pain by softening callused tissue and embedded (ingrown) toenails" (for sodium sulfide only) and "helps relieve the pain, redness, and tenderness of ingrown toenails." The comment argued that these statements accurately present the indications for use for these products and should be allowed because the ingredients sodium sulfide and tannic acid provide the intended result by means of totally different mechanisms of action.

The agency does not find the phrase "relieves pain by softening callused tissue and embedded (ingrown) toenails" acceptable at this time as an indication for sodium sulfide. As discussed in comment 2 above and comment 10 below, the effectiveness of sodium sulfide as a nail softener and pain reliever has not been demonstrated. The agency will reserve judgment on this additional indication until sodium sulfide has been shown to be effective.

The Panel believed OTC ingrown toenail relief drug products should not be used if symptoms of infection were present. The Panel emphasized that infections are not amenable to self-treatment and that, if signs of infection appear, a doctor should be consulted immediately. The symptoms in the comment's suggested indication "helps relieve the pain, redness, and tenderness of ingrown toenails" are very similar to those of an infection, i.e., pain, redness, and swelling. The comment's proposed indication might lead to consumer confusion or misuse of the product and delay seeking professional treatment as needed. The agency concurs with the Panel and is not adopting the comment's suggested indication.

10. One comment requested deletion of the Panel's recommended warning in § 358.450(c)(2), "Do not use this product for more than 7 days," for products containing sodium sulfide. The comment contended that the mechanism of action of sodium sulfide involves a softening of the ingrown toenail and the surrounding callused tissue by reduction of disulfide cross-linkages, that this gradual process may require several weeks to provide maximal benefits, and that prolonged use in no way jeopardizes the safety of the person suffering from this painful condition. The comment stated that it is appropriate to warn the consumer to seek professional treatment if no improvement is noticed, but that the warnings should not include a 7-day limitation on use if relief is being obtained.

The comment also recommended combining the warnings in § 358.40(c)(2) and (4) to eliminate some of the duplicate wording. The revised warning would read "Consult your doctor or podiatrist if your condition worsens, if a discharge is present around the nail, if redness or swelling of the toe increases, or if no improvement is seen. Do not apply this product to open sores."

The Panel reviewed a clinical study on the effectiveness of sodium sulfide. According to the researchers conducting the study, moderate to complete relief of pain and tenderness due to ingrown toenails was noted within 3 to 7 days (Ref. 1). However, the Panel found several problems with the study and concluded that the results had to be corroborated, either by repeating it or by an additional study using a similar protocol. The comment did not submit any data to support the effectiveness of sodium sulfide or to show that several weeks may be required to obtain maximal benefits. Until data are submitted that demonstrate effectiveness and different timeframes within which sodium sulfide provides relief, the agency will retain the 7-day use limitation warning. As mentioned in comment 2 above, the agency proposes to leave sodium sulfide in Category III at this tentative final monograph stage.

The agency does not believe that the warnings in § 358.450(c)(2) and (4) should be combined. The intent of these warnings is to alert consumers to separate and distinct potential medical problems. The purpose of the warning in § 358.450(c)(2) "Do not use this product for more than 7 days. Consult a doctor if no improvement is seen after 7 days." is to inform consumers of the limitations of the usefulness of OTC ingrown toenail relief drug products. This warning is designed to assist the user in determining when the limits of self-treatment have been reached. Because doctors may recommend use of these products for a period exceeding 7 days, the agency is expanding the first sentence of the warning to read "Do not use this product for more than 7 days unless directed by a doctor."

The warning in § 358.450(c)(4) advises the consumer to discontinue use and to see a doctor if signs of an infection appear because infections are not amenable to self treatment. The agency believes that the warnings, as presently worded, are easier to understand and more meaningful to the consumer.

Reference

(1) OTC Volume 160280.

11. One comment requested changing the warning in § 358.450(c)(3) to read "If you have diabetes or circulatory impairment, see a doctor or podiatrist for treatment of ingrown toenail." The comment stated that podiatrists provide valuable professional treatment of various afflictions of the feet and, therefore, it is appropriate to direct the consumer to consult either a physician or a podiatrist in this instance.

The Panel considered this issue in its review of OTC corn and callous drug products and decided against using the term "podiatrist" in the labeling (Ref. 1). The Panel felt that the two terms were synonymous and concluded that the term "doctor" was sufficient; the agency concurs, believing that no one would rule out seeing a podiatrist on the grounds that the term was not specifically included in the warning. Therefore, the agency does not propose to change the wording of this warning in the tentative final monograph.

Reference

(1) Transcript of Proceedings of the Advisory Review on OTC Miscellaneous External Drug Products, April 20, 1980. p. 42.

12. One comment recommended substituting the term "poor circulation" for "circulatory impairment" in § 358.450(c)(3). The comment stated that the term "poor circulation" would be better understood by the lay consumer.

The agency concurs and is proposing that the warning be revised to read "If you have diabetes or poor circulation, see a doctor for treatment of ingrown toenail."

13. One comment contended that the "Directions" recommended by the Panel in § 358.450(d) are too brief and need to be clarified in two areas: (1) The consumer is not told whether to wet the cotton with the drug product before or after placing the cotton in the nailgroove, and (2) the consumer is not told whether to change the cotton several times daily when application of the product is repeated, or merely to apply the drug to the original, or previously-used, piece of cotton. The comment pointed out that the Panel did not refer to any research on the advisability of frequent changes of the cotton and suggested that this subject be examined prior to clarifying these parts of the directions.

The agency agrees with the comment that the Panel's recommended "Directions" in § 358.450(d) could be revised to make them clearer to consumers. The agency is not aware of studies designed to show that removing or reusing the cotton previously saturated with the drug product would adversely affect the treatment of ingrown toenails. The agency does not believe there is any reason why the drug could not be added to the same piece of cotton several times during the course of one day. However, the agency believes that the consumer should change the cotton at least once daily for hygienic reasons. Therefore, the agency is proposing to revise the appropriate portion of the directions to read: "* * * wet cotton thoroughly with the solution several times daily until nail discomfort is relieved. Change cotton at least once daily. Do not use product for more than 7 days unless directed by a doctor."

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions

1. *Summary of ingredient categories.* The Panel placed tannic acid and sodium sulfide in Category III because available data were insufficient to permit final classification. The Panel concluded that tannic acid is safe in concentrations up to 25 percent, but there are insufficient data available to determine its effectiveness as an ingrown toenail relief active ingredient. Although sodium sulfide in concentrations up to 1 percent was considered safe, there were insufficient data available to establish its effectiveness as an ingrown toenail relief active ingredient. FDA concurs with the Panel's classification of these ingredients.

For the convenience of the reader, the following table is included as a summary of the categorization of ingrown toenail relief active ingredients by the Panel and the proposed classification by the agency:

Ingrown toenail relief active ingredients	Panel	Agency
Chloroxylenol	II	II.
Sodium sulfide	III	III.
Tannic acid	III	III.
Urea	II	II.

2. *Testing of Category II and Category III conditions.* The Panel did not recommend any testing guidelines for ingrown toenail relief drug products. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any ingrown toenail relief ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes in the Panel's Recommendations

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made in the Panel's conclusions and recommendations follows.

(1) The agency has modified the statement of identity in § 358.450(a) by deleting the term "drug" from the phrase and has added "ingrown toenail reliever" as an alternative phrase. (See comment 7 above.)

(2) The agency has expanded the warning in § 358.450(c)(2) by adding the words "unless directed by a doctor." (See comment 10 above.)

(3) The agency has modified the warning in § 358.450(c)(3) by substituting "poor circulation" for "circulatory impairment." (See comment 12 above.)

(4) The agency has modified a portion of the directions in § 358.450(d) to read: ". . . wet cotton thoroughly with the solution several times daily until nail discomfort is relieved. Change cotton at least once daily. Do not use product for more than 7 days unless directed by a doctor." (See comment 13 above.)

(5) This proposal constitutes Subpart D of Part 358, not Subpart E as stated in the Panel's recommended monograph. Accordingly, all sections of the tentative final monograph are numbered as § 358.300 instead of § 358.400.

The agency has examined the economic consequences of this proposed rulemaking and has determined that it does not require either a Regulatory Impact Analysis, as specified in Executive Order 12291, or a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354).

Specifically, ingrown toenail relief drug products may continue to be marketed while additional testing is being performed. If none of these ingredients is elevated to Category I status, then there will be no active ingredients to include in a final monograph, and these products will have to be removed from the market. If any of these ingredients is elevated to Category I status, some relabeling will be necessary because the agency has made some minor revisions in the Panel's recommended labeling. Manufacturers will have up to 12 months to revise their product labeling. In most cases, this will be done at the next printing so that minimal costs should be incurred. Thus, the impact of a final rule appears to be minimal whether or not the ingredients are elevated to Category I status. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC ingrown toenail relief drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC ingrown toenail relief drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on ingrown toenail relief drug products, a period of 120 days from the date of publication of this proposed rulemaking in the **Federal Register** will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has carefully considered the potential environmental effects of this proposal and has concluded that the action will not have significant impact on the human environment and an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding, contained in an environmental assessment (under 21 CFR 25.31, proposed in the **Federal Register** of December 11, 1979; 44 FR 71742), may be seen in the Dockets Management Branch, Food and Drug Administration.

List of Subjects in 21 CFR Part 358

Over-the-counter drugs, Skin bleaching agents, Wart removers, Nailbiting and thumbsucking deterrents, Ingrown toenail relief.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 358 by adding new Subpart D, to read as follows:

PART 358—MISCELLANEOUS EXTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

* * * * *

Subpart D—Ingrown Toenail Relief Drug Products

Sec.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704).

Subpart D—Ingrown Toenail Relief Drug Products

§ 358.301 Scope.

(a) An over-the-counter ingrown toenail relief drug product in a form suitable for topical administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this subpart in addition to each of the general conditions established in § 330.1.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 358.303 Definition.

As used in this subpart:

Ingrown toenail relief drug product. A drug product applied to an ingrown toenail that will correct the condition either by softening the nail or by hardening the nail bed.

§ 358.310 Ingrown toenail relief active ingredients. [Reserved]

§ 358.350 Labeling of ingrown toenail relief drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "ingrown toenail relief product" or as an "ingrown toenail reliever."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the following: "For temporary relief of discomfort from ingrown toenails."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) "For external use only."

(2) "Do not use this product for more than 7 days unless directed by a doctor. Consult a doctor if no improvement is seen after 7 days."

(3) "If you have diabetes or poor circulation, see a doctor for treatment of ingrown toenail."

(4) "Do not apply this product to open sores. If redness and swelling of your toe increase, or if a discharge is present around the nail, stop using this product and see your doctor."

(d) *Direction.* The labeling of the product contains the following statement under the heading "Directions":

"Cleanse affected toes thoroughly. Place a small piece of cotton in the nail groove (the side of the nail where the pain is) and wet cotton thoroughly with the solution several times daily until nail discomfort is relieved. Change cotton at least once daily. Do not use product for more than 7 days unless directed by a doctor."

Interested persons may, on or before November 2, 1982, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before January 2, 1983. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register.**

Interested persons, on or before September 3, 1983, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before November 3, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on November 3, 1983. Data submitted after the closing of the adminstrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register** unless the Commissioner finds good cause has been shown that warrents earlier consideration.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Dated: August 9, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82–24074 Filed 9–2–82; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). 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
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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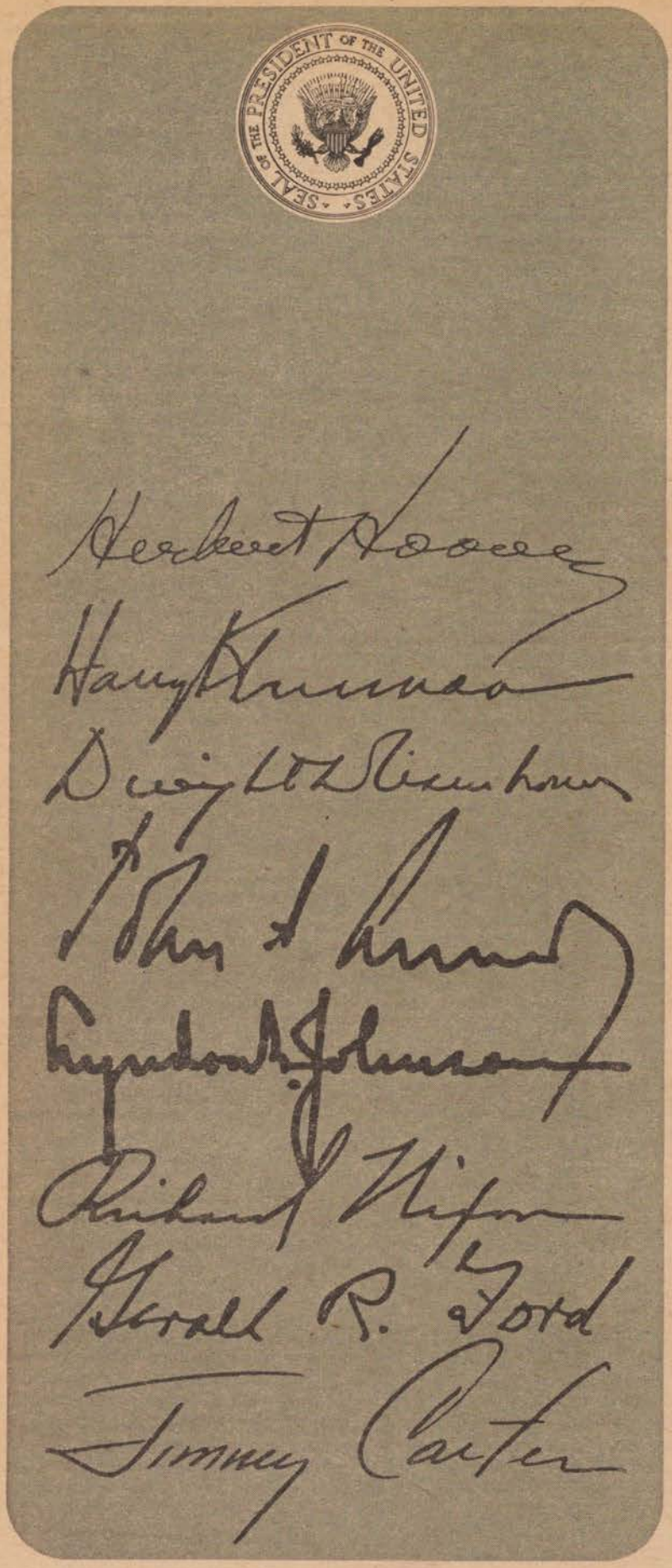

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